



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**Northampton Gateway Strategic Rail Freight
Interchange**

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

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9 July 2019



The Planning
Inspectorate

**ERRATA SHEET – Northampton Gateway Strategic
Rail Freight Interchange - Ref TR050006**

**Examining authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for Transport, dated 9
July 2019**

**Corrections agreed by the Examining Authority prior to a decision
being made**

Paragraph	Error	Correction
1.4.8	ASI	Accompanied Site Inspection (ASI)
4.7.30	2 nd last sentence "Without the provision on new SRFIs in these locations, logistic operators will be forced to continue to utilise road as their only method of freight distribution"	Delete sentence as repeated

OVERVIEW

File Ref: TR050006

The Application, dated 18 May 2018, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 21 May 2018.

The Applicant is Roxhill (Junction 15) Limited.

The application was accepted for examination on 15 June 2018.

The Examination of the application began on 9 October 2018 and was completed on 9 April 2019.

The development proposed comprises:

- an intermodal freight terminal including container storage and Heavy Goods Vehicle (HGV) parking, rail sidings to serve individual warehouses, and the provision of an aggregates' facility as part of the intermodal freight terminal, with the capability to also provide a rapid rail freight facility;
- up to 468,000 sqm (approximately 5 million square feet) (gross internal area) of warehousing and ancillary buildings, with additional floorspace of up to 155,000 sqm provided in the form of mezzanines;
- a secure, dedicated HGV parking area of approximately 120 spaces including driver welfare facilities to meet the needs of HGVs visiting the site or intermodal terminal;
- new road infrastructure and works to the existing road network, including the provision of a new access and associated works to the A508, a new bypass to the village of Roade, improvements to Junction 15 and to Junction 15A of the M1 motorway, the A45, other highway improvements at junctions on the local highway network and related traffic management measures;
- strategic landscaping and tree planting, including diverted public rights of way within the strategic landscaping; and
- earthworks and demolition of existing structures on the Main Site, the Main Site comprising that part of the proposed development for the intermodal freight terminal, warehousing, HGV parking, and related landscaping and earthworks.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The Application for the Northampton Gateway Strategic Rail Freight Interchange (the Proposed Development¹) (Ref.TR050006) was submitted by Roxhill (Junction 15) Limited (the Applicant). It was received by the Planning Inspectorate (PINS) on 21 May 2018 under section 37 of the Planning Act 2008 (PA2008) and accepted for Examination under section (s) 55 of the PA2008 on 15 June 2018 [PD-001]².

1.1.2. The Proposed Development comprises:

- an intermodal freight terminal including container storage and HGV parking, rail sidings to serve individual warehouses, and the provision of an aggregates' facility as part of the intermodal freight terminal, with the capability to also provide a rapid rail freight facility³;
- up to 468,000 sqm (approximately 5 million square feet) (gross internal area) of warehousing and ancillary buildings, with additional floorspace up to 155,000 sqm provided in the form of mezzanines;
- a secure, dedicated Heavy Goods Vehicle (HGV) parking area of approximately 120 spaces including driver welfare facilities to meet the needs of HGVs visiting the site or intermodal terminal;
- new road infrastructure and works to the existing road network, including the provision of a new access and associated works to the A508, a new bypass to the village of Roade, improvements to Junction 15 and to Junction 15A of the M1 motorway, the A45, other highway improvements at junctions on the local highway network and related traffic management measures;
- strategic landscaping and tree planting, including diverted public rights of way; and.
- earthworks and demolition of existing structures on the Main Site⁴.

¹ In addition to proper names, words which are capitalised are generally those which have a specific meaning within the Planning Act 2008 process

² Individual document references to the Examination Library in this report are enclosed in square brackets []. Whilst the ExA has read and had regard to all the representations made, the references should be viewed as being representative of where particular points have been made or information can be found to assist the reader in accessing source material. The referencing is not intended to refer to every representation or element of source material

³ A facility that could respond to innovative ways of meeting demand from customers for a reliable, flexible and rapid delivery service. Although the market for this is largely untested, a final specification and design would be able to respond to market needs if they develop and therefore this would provide 'future-proofing' of the SRFI [APP-378, paras 9.3-9.6 and REP1-020, answer to ExQ 1.11.14]

⁴ The 'Main Site' is hereafter used to refer to that part of the Proposed Development comprising the intermodal freight terminal, warehousing, HGV parking and related landscaping, earthworks and demolition of existing

- 1.1.3. The location of the Proposed Development is shown on the Components of the Proposed Development Plan [APP-068] and Land Plans [APP-005, APP-006, APP-007, APP-008, APP-009, APP-010, APP-011], with final updated versions of the Key Plan [AS-062], and Sheets, 2, [AS-066], 4 [REP7-003] and 6 [AS-009] being received during the Examination as additional and Examination deadline submissions.
- 1.1.4. In brief, the Main Site lies between the M1 motorway to the east and the Northampton Loop railway line (part of the West Coast Main Line) to the west, close to Junction 15 of the motorway. The Proposed Development lies within the County of Northamptonshire, with the Main Site and most of the associated development being within South Northamptonshire District and with additional highway associated development within Northampton Borough.
- 1.1.5. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by PINS on behalf of the Secretary of State (SoS) for Housing, Communities and Local Government (MHCLG) in the decision to accept the application for Examination in accordance with s55 of PA2008 [PD-001].
- 1.1.6. PINS agreed with the Applicant's view stated in the application form [APP-001] that the Proposed Development is an NSIP as it comprises the construction of a rail freight interchange which meets the criteria in s26 of PA2008, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(l) of PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 7 August 2018 Philip Asquith, as lead member, and David Brock as a Panel member were appointed as the Examining Authority (ExA) for the application under s61 and s65 of PA2008 [PD-004]. Following a review of the Written Representations (WR), the ExA was enlarged on 7 December 2018 to a Panel of three with the appointment of Helen Cassini under s65(1)(a) of PA2008 [PD-008].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

- 1.3.1. The persons involved in the Examination were:
- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
 - Affected Persons (APs) who were affected by a compulsory acquisition (CA) and/ or temporary possession (TP) proposal made as part of the application and objected to it at any stage in the Examination.

structures. The Main Site is defined within Article 2 of the draft Development Consent Order as comprising areas of land on the Works Plans as Works Nos 1, 2, 3, 4, 5 and 6
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- Mr Richard Mawby (not an IP) spoke at a second Open Floor Hearing and submitted his oral representation [REP6-033] in writing at the next Examination deadline as requested. He was a member of the public who arrived at the hearing without providing in advance notification of his attendance or wish to speak. The ExA decided Mr Mawby could participate during the OFH. Mr Adam Brown, Northamptonshire County Councillor for Bugbrooke Ward, also spoke during the second OFH. He was also not an IP.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 9 October 2018 and concluded on 9 April 2019.

1.4.2. The principal components of, and events around, the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

1.4.3. On 10 September 2018, the ExA wrote to all IPs and Statutory Parties under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (the Rule 6 Letter) inviting them to the Preliminary Meeting (PM). The Rule 6 letter also notified them of an early Issue Specific Hearing (ISH) on the Applicant's draft Development Consent Order (dDCO) and the intention to hold an early Open Floor Hearing (OFH). It outlined:

- the arrangements and agenda for the PM;
- notification of the ISH and OFH to be held in the early stage of the Examination;
- agendas for these early hearings;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of Relevant Representations (RRs) and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 9 October 2018 at the Hilton Northampton, 100 Watering Lane, Northampton. An audio recording [EV-002] and a note of the meeting [EV-001] were published on the Planning Inspectorate National Infrastructure website⁵.

1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-006], dated 17 October 2018.

Key Procedural Decisions

- 1.4.6. The procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-006]. They included those relating to the Examination timetable, the ExA's written questions, Statements of Common Ground, protocol in respect of the relationship between the Proposed Development and the adjacent Rail Central project⁶, and the date reserved for an Accompanied Site Inspection and so there is no need to reiterate them here.

Site Inspections

- 1.4.7. The ExA held an unaccompanied site inspection (USI) on Wednesday 10 October 2018, the purpose being to gain familiarisation with the Main Site, that of the proposed Roade Bypass Corridor, the other proposed highway alterations, and their surrounding context. A site note providing a procedural record of the USI can be found in the Examination Library under reference [EV-005].
- 1.4.8. An accompanied site inspection was held by the ExA on 18 December 2018, the purpose being to view parts of the Main Site that are not publicly accessible and to see features of the application site and surrounding area that IPs had specifically requested should be viewed by the ExA [EV-007]. The itinerary for the ASI can be found in the Examination Library under the above reference.
- 1.4.9. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing Processes

- 1.4.10. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary terms:
 - where persons affected by compulsory acquisition (CA) and / or temporary possession (TP) proposals (Affected Persons) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
 - where IPs request to be heard at an Open Floor Hearing (OFH).

⁶ The Rail Central project is another NSIP for a similar SRFI on land adjoining and partially overlapping the Northampton Gateway Main Site and is at the application stage, with an Examination likely to start in December 2019. It is more fully described in this Report in section 2.5 of Chapter 2 below
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- To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.11. The ExA held several hearings to ensure the thorough examination of the issues raised by the application.
- 1.4.12. Issue Specific Hearings (ISHs) under s91 of PA2008 were held at the Hilton Northampton, Watering Lane, Northampton, a location close to the Main Site of the Proposed Development and convenient for many of the IPs.
- 1.4.13. ISHs were held on the subject matter of the dDCO on:
- ISH1, 9 October 2018 [PD-005, EV-003];
 - ISH3, 20 December 2018 [EV-009, EV-026]; and
 - ISH5, 13 March 2019 [EV-014, EV-030].
- 1.4.14. ISHs were held on the subject matters of environmental impact and cumulative and interaction impacts on:
- ISH2, Environmental Matters, 18 December 2018 [EV-008, EV-024, EV-025]; and
 - ISH4, Cumulative Impact and Interaction Issues, 12 March 2019 [EV-013, EV-028, EV-029].
- 1.4.15. These ISHs addressed the following subject matters:
- ISH2 considered amongst other matters road and rail transport, landscape and visual matters, air quality, ecology and waste; and
 - ISH4 considered the Proposed Development's cumulative and interaction impacts with other committed and proposed development, in particular those with the NSIP of Rail Central's (RC's) proposed SRFI.
- 1.4.16. Compulsory Acquisition Hearings (CAH) were held under s92 of PA2008 at the Hilton Northampton on:
- CAH1, on 20 December 2018 [EV-010, EV-027]; and
 - CAH2, on 13 March 2019 [EV-015, EV-022].
- 1.4.17. All persons affected by compulsory acquisition (CA) and / or temporary possession (TP) proposals (Affected Persons (APs)) were provided with an opportunity to be heard. We also used these hearings to examine the Applicant's case for CA and / or TP in the round.
- 1.4.18. Two OFHs were held under s93 of PA2008 at the Hilton Northampton on:
- OFH1, 10 October 2018 [PD-006, EV-004]; and
 - OFH2, 14 March 2019 [EV-016, EV-023].
- 1.4.19. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

Written Processes

1.4.20. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All material is recorded in the Examination Library (Appendix B) and published online. Individual document references to the Examination Library in this Report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

1.4.21. Key written sources are set out further below.

Relevant Representations

1.4.22. Some 848 Relevant Representations (RRs) were received by the Planning Inspectorate (PINS) [RR-001 to RR-848]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 4 to 8 of this Report.

Written Representations and Other Examination Documents

1.4.23. The Applicant and IPs were provided with opportunities to:

- make Written Representations (WRs) (Deadline (D) 1);
- comment on WRs made by the Applicant and other IPs (D2);
- summarise their oral submissions at hearings in writing (D1, D4 and D6);
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
 - A commentary on the dDCO [PD-009] published on 5 February 2019 by D5.

1.4.24. The Rt Hon Andrea Leadsom MP, in whose constituency South Northamptonshire, the Proposed Development is located, wished to request an Open Floor Hearing at a date and time that would allow her to speak, her duties in the House of Commons preventing attendance at either of the proposed scheduled OFH [AS-034]. She also subsequently indicated a wish to attend the scheduled Accompanied Site Inspection, although her parliamentary duties also prevented this [REP1-086]. The ExA was not able to accommodate Mrs Leadsom's request but allowed her Parliamentary Assistant, Mr Tommy Gilchrist, to present a written statement on her behalf at ISH4 [REP6-044].

1.4.25. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in this Report.

Local Impact Reports

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1.4.26. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited by and submitted to the ExA under s60 of PA2008.

1.4.27. LIRs have been received by the ExA from the following relevant local authorities:

- South Northamptonshire Council (SNC) [REP1-037];
- Northampton Borough Council (NBC) [REP1-089]; and
- Northamptonshire County Council (NCC) [REP1-036]

1.4.28. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this Report.

Statements of Common Ground

1.4.29. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.

1.4.30. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:

- Highways England (HE) [APP-382, REP1-005, REP1-006, REP1-007, AS-050]
- NCC [APP-383, AS-006, REP1-009, AS-053, REP1-011, REP3-005];
- Environment Agency (EA), SNC, NCC, Natural England (NE), [REP-384];
- Anglian Water [REP7-019, REP7-020];
- Cadent Gas [REP1-010];
- Warwickshire County Council [REP1-013];
- NBC [REP1-014];
- SNC [AS-058];
- EA [REP1-015];
- Network Rail (NR) [REP1-016, REP5-015];
- Hutchison 3G and EE Limited [REP2-008];
- Ashfield Land / Gazeley GLP Northampton s.a.r.l (Rail Central) [REP3-006, AS-049]; and
- Rail Central (RC) and NR [REP5-016].

1.4.31. The ExA requested a SoCG between the Applicant and the relevant Local Enterprise Partnership (LEP) to cover employment issues. The Applicant sought to obtain a SoCG but the LEP declined to engage in the exercise, indicating that "*they are unhappy with the principle of signing any such statement*". The ExA asked the LEP in Further Written Questions [PD-010, ExQ 2.8.4] to explain and reconsider its position. However, by the close of the Examination no SoCG had been agreed.

1.4.32. The SoCGs have been taken fully into account by the ExA in all relevant Chapters of this Report. There is a further unsigned SoCG with Historic England in which it is recorded that there are no areas of disagreement

[REP1-017]. The contents of this and Historic England's views are considered in Chapter 7 below.

Written Questions

- 1.4.33. The ExA asked two rounds of written questions.
- First written questions (ExQ1) [PD-007] and procedural decisions were set out in the Rule 8 letter [PD-006], dated 17 October 2018.
 - Further written questions (ExQ2) [PD-010] were issued on 5 February 2019.
- 1.4.34. A request for further information and comments under Rule 17 of the EPR was issued on 29 March 2019 [PD-012].
- 1.4.35. The Rule 17 request was made to seek responses on:
- criticisms on the way climate change had been addressed with reference to the EIA regulations;
 - information on the total carbon lifecycle of the Proposed Development;
 - information on other consents and permissions that would be required should consent be granted;
 - the status of a SoCG with Historic England; and
 - information on the expected annual amount of non-inert wastes arising from the Proposed Development.
- 1.4.36. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

- 1.4.37. There were no requests to join the Examination by persons who were not already IPs at or after the PM.
- 1.4.38. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs / APs and the Applicant, only Cadent Gas Limited, as an IP, wrote to the ExA to inform it that its issues regarding the need to ensure protection for low, medium and high pressure gas pipelines within the Order limits were settled, and its RR was withdrawn [RR-218, AS-079]. A SoCG with Cadent Gas confirmed protective provisions have been agreed and included within the dDCO [REP1-010]. Mr Stuart Dunkley, an AP, withdrew his objection [AS-080, RR-631], as did Mr Anthony Irlam [AS-046] and A and G Bament [REP7-014].

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 21 October 2016, the Applicant submitted a Scoping Report to the Secretary of State (SoS) under Regulation 8 of the Infrastructure

Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) [APP-076]. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 6(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the project.

- 1.5.3. On 1 December 2016 PINS provided a Scoping Opinion [APP-076]. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES on 18 May 2018. Although the Applicant considered that the ES could have been prepared under the 2009 Regulations, it was prepared to comply with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 [APP-077].
- 1.5.4. On 8 August 2018 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with.
- 1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 4 of this Report.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided [APP-372]. In response to advice from the Planning Inspectorate (PINS) when the application was accepted, the Applicant submitted an updated HRA Report [AS-012].
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 4 and 8 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the Examination, the following had entered into a formal agreement with the Applicant, which has been signed and executed and the obligations within it are important and relevant considerations for the SoS:
- Section 106 (s106) agreement made on 28 March 2019 between Hereward Charles Wake and another (1), John Hereward Wake (2), Roxhill (Junction 15) Ltd (3), South Northamptonshire Council (4), and Northamptonshire County Council (5). This can be found at [REP6-048].
- 1.7.2. The obligations within the s106 agreement have been considered by the ExA in all relevant Chapters of this Report and are discussed in detail in Chapter 11.

1.8. OTHER CONSENTS

1.8.1. The application documentation, notably the revised Guide to the application [AS-039], and questions during this Examination have identified the following consents that the Proposed Development may need to be obtained, in addition to Development Consent under PA2008:

- agreement with utility providers for supplies;
- Building Regulation approval from SNC in respect of buildings forming part of the Proposed Development;
- European Protected Species licences for great crested newts and bats;
- licence for work affecting badgers;
- water abstraction licences;
- connection agreement with NR in respect of the connections to the Northampton Loop Line (NLL);
- agreement with utility providers for diversion of existing utilities⁷;
- licence for utilities under the M1; and
- an environmental permit from the Environment Agency for the sewer connection works near the Wootton Brook.

1.8.2. Having regards to European Protected Species licences, Natural England has provided to the Applicant letters of no impediment in respect of bats [REP5-003] and great crested newts [REP5-006]. In relation to the other outstanding agreements, licences and consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the application be granted consent by the SoS.

1.9. STRUCTURE OF THIS REPORT

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and make this Report;
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects;
- **Chapter 3** records the legal and policy context for the SoS's decision;
- **Chapter 4** sets out the planning issues that arose from the application and during the Examination;
- **Chapter 5** considers transport-related matters, both road and rail;
- **Chapter 6** considers impacts on air quality;
- **Chapter 7** considers other relevant planning issues;
- **Chapter 8** considers effects on European Sites and Habitats Regulations Assessment (HRA);
- **Chapter 9** sets out the balance of planning considerations arising from Chapters 4 to 8, in the light of the factual, legal and policy information in Chapters 1 to 3;

⁷ Whilst provision is made in the dDCO in respect of Cadent, Anglian Water and electricity undertakers there may be others
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- **Chapter 10** sets out the ExA's examination of Compulsory Acquisition (CA) and Temporary Possession (TP) proposals;
- **Chapter 11** considers the Development Consent Order (DCO); and
- **Chapter 12** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

This report is supported by the following Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – the Recommended dDCO.

2. THE PROPOSAL AND THE SITE

2.1. THE APPLICATION AS MADE

2.1.1. Chapter 2 of the Environment Statement (ES) [APP-078] provides a full description of the Proposed Development which, in summary terms, comprises:

- *"An intermodal freight terminal including containers storage and HGV parking, rail sidings to serve individual warehouses, and the provision of an aggregates facility as part of the intermodal freight terminal, with the capacity to also provide a rapid rail freight facility;*
- *Up to 468,000 square metres (approximately 5 million sq ft) (gross internal area) of warehousing ancillary buildings, with additional floor space provided in the form of mezzanines;*
- *A secure, dedicated, HGV parking area of approximately 120 spaces including driver welfare facilities to meet the needs of HGVs visiting the site or intermodal terminal;*
- *New road infrastructure and works to the existing road network, including provision of a new access and associated works to the A508, a new bypass to the village of Roade, improvements to Junction 15 and Junction 15A of the M1 motorway, the A45, other highway improvements at junctions on the local highway network and related traffic management measures;*
- *Strategic landscaping and tree planting, including diverted public rights of way; and*
- *Earthworks and demolition of existing structures on the SRFI site".*

2.1.2. As illustrated below, document 2.11 of the Application documents [APP-066] provides a schematic diagram identifying and locating the primary design components of the Proposed Development.

Figure 1 Illustrative Masterplan (Application Document 2.11 [APP-066])



2.2. THE PROPOSED DEVELOPMENT SITE AND SETTING

2.2.1. The Proposed Development site comprises three distinct sections:

- the Main Site, including the new site access from the A508;
- the Bypass Corridor; and

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- the Highways Mitigation Works.

- 2.2.2. The proposed SRFI or Main Site has an area of approximately 219 hectares (ha) and is located within the district of South Northamptonshire. It consists of land to the immediate east of the Northampton Loop Line (NLL), and west of the A508. The M1 forms the site's north-eastern boundary, running north-west to south-east, with Junction 15 of the M1 to the immediate east of the site.
- 2.2.3. The urban area of Northampton, and the village of Collingtree, are located on the opposite (north-eastern) side of the M1. To the west of the site are the villages of Milton Malsor and Blisworth, with the village of Roade to the south, straddling the A508. The West Coast Main Line (WCML) railway, runs to the west of the Main Site.
- 2.2.4. The Proposed Development includes new infrastructure, which includes a bypass for Roade within the 'Bypass Corridor', taking the A508 around the western side of the village and which includes a crossing over the WCML. The Proposed Development also consists of land necessary to accommodate other Highways Mitigation Works. These include improvements to Junctions 15 and 15A of the M1, the A45, and to several junctions on the nearby local highway network focused along the A508 corridor.
- 2.2.5. The total area covered by the Proposed Development site, including the Main Site, Bypass Corridor and all Highways Mitigation Works, is 290.5 hectares (ha). The best record and explanation of the site and setting is found in the Location Plan [APP-067], the Components of the Proposed Development Plan [APP-068] and Land Plans [APP-005, APP-006, APP-007, APP-008, APP-009, APP-010, APP-011], with final updated versions of the Key Plan [AS-062], and Sheets 2, [AS-066], 4 [REP7-003] and 6 [AS-009] being received during the Examination as additional and deadline submissions.
- 2.2.6. The Proposed Development site is located within a Local Gap, identified under Saved Policy EV8 of the South Northamptonshire Local Plan (SNLP) 1997, between the urban fringe of Northampton and settlements within South Northamptonshire.
- 2.2.7. The Proposed Development is also adjacent to the boundary of Northampton Borough, with some of the Highway Mitigation Works located within the Borough north of the M1, as well as improvements to Junctions 15 and 15A of the M1 itself.
- 2.2.8. Most of the Main Site and Bypass Corridor are in agricultural use, with the Highway Mitigation Works being focused on land already located within the existing highway. The surrounding area is mixed in character with major transport and development infrastructure to the east and north of the Main Site, and railway infrastructure to the immediate west.
- 2.2.9. The Main Site has a gentle undulating landscape with two wooded areas within the south-western section, which offer views of open fields.

Although primarily characterised by open fields, the Main Site is also confined by existing motorway and rail infrastructure which borders the site.

- 2.2.10. Ground levels vary on the Main Site. A ridge extends along the western side and falls back towards Junction 15 of the M1. The eastern edge of the Main Site, closest to the A508, is lower than the top of the ridge in the west and is located within a shallow but enclosed landform setting.
- 2.2.11. In terms of ground levels, the proposed Bypass Corridor is more elevated and varied in comparison to the Main Site, with varying slopes around the western edge of Roade being evident.
- 2.2.12. There are no statutory designated sites within or adjacent to the application site. The Roade Cutting Site of Special Scientific Interest (SSSI), which is a site of geological interest, is located within the boundary of the Bypass Corridor. The Upper Nene Valley Gravel Pits Special Protection Area (SPA) and Ramsar site is located approximately five kilometres (km) from the western boundary of the Main Site.
- 2.2.13. There are several non-statutory potential Local Wildlife Sites (pLWS) within the boundary of the Proposed Development site, including the pLWS of Highgate Wood, Roade Cutting and Roade Field. Potential or notable species present include badger, roosting and foraging bats, farmland and woodland birds, great crested newts, invertebrates, common lizard, grass snake and otter.
- 2.2.14. Hyde Farm House is a Grade II listed building, situated close to the Bypass Corridor. The Bypass Corridor is also close to the Grade II listed Roade Aqueduct. Within a 1km radius of the Proposed Development site there are 51 listed buildings, three Conservation Areas and a Registered Park and Garden. There are no designated archaeological assets within the Proposed Development site. However, the Proposed Development would require the demolition of two non-designated barns located on the Main Site.
- 2.2.15. The issue of whether there are any European sites⁸ within or near the Proposed Development site that would give rise to the need for an appropriate assessment under the Regulations⁹ is examined in Chapter 8 of the Report.
- 2.2.16. The Proposed Development site is located almost entirely within Flood Zone 1, which is the lowest defined category of flood risk. The Main Site includes the Courteenhall Brook which flows through Grange Park to the M1 before joining the Wootton Brook. The Bypass Corridor would cross a small un-named ordinary watercourse which is locally referred to as Roade Brook.

⁸ Regulation 8 of the Conservation of Habitats and Species Regulations 2017 (as amended)

⁹ Conservation of Habitats and Species Regulations 2017 (as amended)

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- 2.2.17. In terms of footpaths, public footpaths KX13 and KX17 run through the Main Site. Footpaths KX13 and KG5 provide a connection from High Street, Collingtree over the M1 via an existing bridge and across the Main Site towards the A508. KX17 links with public footpath KX13 which also crosses the Main Site, linking with the existing bridge over the WCML railway. Footpath KX13 also links with RD1, which provides access to Blisworth.
- 2.2.18. Existing bridleways KG1, KG2, LD6 and LD7 are located to the north of the Main Site. The bridleways link Collingtree with the network of cycleways within East Hunsbury, en-route to Northampton and form part of the Northampton cycle route network.

2.3. THE APPLICATION AS EXAMINED

- 2.3.1. As is normal during Nationally Significant Infrastructure Project (NSIP) examinations, several changes / amendments were made to application documents as the Examination progressed. The changes sought to address points raised in RRs, WRs, other submissions by IPs and in written examination questions by the Examining Authority (ExA) [PD-007] and [PD-010]; and to reflect improved matters such as clarity and / or discrepancies within the dDCO and other environmental matters.
- 2.3.2. In addition to several changes made to application documents during the course of the Examination, the issue of associated development¹⁰ was raised by Rail Central in response to the issue of the Rule 6 letter [AS-027] and also during the Preliminary Meeting (PM). Rail Central (RC) requested that the ExA considered whether the Bypass Corridor would comply with the definition of associated development. Following the suggestion by the ExA at the PM [EV-001], RC included this issue within its WR [REP1-029].
- 2.3.3. Subsequently, in the first round of written questions the ExA asked the Applicant to confirm how the Bypass Corridor and other junction improvements on the A508 were to be properly considered within the scope of the dDCO as associated development [PD-007]. In its response [REP1-020], the Applicant outlined the need for the Bypass Corridor and how it would be in accordance with the statutory definition of associated development contained in s115(2) of PA2008.
- 2.3.4. At D2 the Applicant provided a note in response to RC's WR, oral submission at ISH1 and responses to the first round of ExA's questions [REP2-011]. This further examined the rationale for the inclusion of the Bypass Corridor as part of the highway mitigation strategy.
- 2.3.5. During ISH5, a discussion on the issue of associated development was held. RC advised that it was no longer contesting the inclusion of the Bypass Corridor as associated development [REP6-018].

¹⁰ S.115 of PA2008, with guidance in DCLG 'Planning Act 2008 Guidance on associated development applications for major infrastructure projects' Northampton Gateway SRFI TR050006
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- 2.3.6. This matter was considered by the ExA. Having regards to the detailed responses provided by the Applicant, the ExA accepts that the Bypass Corridor complies with the statutory definition of associated development as detailed in s115 of PA2008.

Changes in Examination by Deadline

- 2.3.7. The main changes to application documentation during the Examination are summarised as follows:

Deadline 2 (D2) – 20 November 2018

- revised Access and Rights of Way Plans Sheet 1 of 5 (P6) [REP2-003]
- revised Access and Rights of Way Plans Sheet 4 of 5 (P6) [REP2-004]
- revised dDCO Document 3.1B [REP2-006]

Deadline 3 (D3) – 30 November 2018

- revised Construction Environmental Management Plan (CEMP) [REP3-010]
- revised Landscape and Ecological Management Plan (LEMP) [REP3-012]

Deadline 4 (D4) – 08 January 2019

- revised dDCO Document 3.1C [REP4-004]
- revised ES Chapter 9 Air Quality [REP4-007]
- revised Comparative Analysis of Northampton Gateway and Rail Central [REP4-008]
- Hyde Farm House minor scheme amendment [REP4-014]

Deadline 5 (D5) – 26 February 2019

- revised Works Plan Key Plan [REP5-007]
- revised Works Plan Sheet 1 of 6 [REP5-008]
- revised Works Plans Main Site Composite [REP5-009]
- revised Parameters Plan [REP5-010]
- revised dDCO Document 3.1D [REP5-012]
- revised Explanatory Memorandum (EM) [REP5-013]
- revised Parameters Plan Minor Amendments [REP5-020]
- further revised Air Quality Chapter [REP5-021] page 119 and following

Deadline 6 (D6) – 19 March 2019

- revised Construction Environmental Management Plan (CEMP) [REP6-003]
- revised Access and Rights of Way Key Plan (P5) [REP6-004]
- revised dDCO Document 3.1E [REP6-006]

Deadline 7 (D7) – 26 March 2019

- revised Land Plan Sheet 4 of 6 [REP7-003]
- revised Book of Reference (BoR) [REP7-004]

- 2.3.8. In addition to revisions submitted in response to specific Deadlines, Additional Submissions were also made during the Examination. Such submissions include anything accepted at the PM and correspondence that was either relevant to a procedural decision or contained information pertaining to the Examination. A full list of Additional Submissions can

be viewed in the Examination Library (Appendix B). Key Additional Submissions include:

- revised dDCO Document 3.1A [AS-005]
- revised dDCO Document 3.1E [REP6-006]
- Updated Cumulative Impact Assessment (UCIA) [AS-040]
- revised CEMP [AS-048]
- revised BoR [AS-056]

- 2.3.9. The status of each application document at the close of the Examination is provided in the Document List submitted at D7 [REP7-002].
- 2.3.10. The ExA has remained aware throughout the Examination of the need to consider whether changes to the application documents have altered to a point where it became a different application and whether the SoS would therefore have the power under s114 of PA2008 to make a DCO, having regard to the original development consent applied for.
- 2.3.11. 'Planning Act 2008: Guidance for the Examination of applications for development consent' (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance¹¹. The view expressed by the Government during the passage of the Localism Act 2011 was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made¹².
- 2.3.12. The ExA has considered this context throughout the Examination. We conclude that the changes to the application, which primarily consisted of minor amendments to plans and revisions to the dDCO, have not resulted in significant change to that which was applied for. The amendments have therefore been accepted for examination purposes.

2.4. **RELEVANT PLANNING HISTORY**

- 2.4.1. A list of planning applications made on the Proposed Development site is contained within SNC's LIR [REP1-037]. These include:
- *"a consent in 1975 for the continuance of extraction of railway ballast and the tipping of clean spoil and hardcore*
 - *an application for an office park and business exchange, which was refused in 1990*
 - *the development of a new campus facility for Howdens, which was withdrawn by the applicant in 2014"*
- 2.4.2. In the NBC LIR [REP1-089], it is noted that the Proposed Development site was considered as a strategic employment site as part of the consultation process for the West Northampton Joint Core Strategy

¹¹ Planning Act 2008: Guidance for the examination of applications for development consent. DCLG (2015)

¹² Correspondence from Bob Neill MP, Parliamentary Under Secretary of State to Sir Michael Pitt, Chair, Infrastructure Planning Commission. DCLG (28 November 2011)

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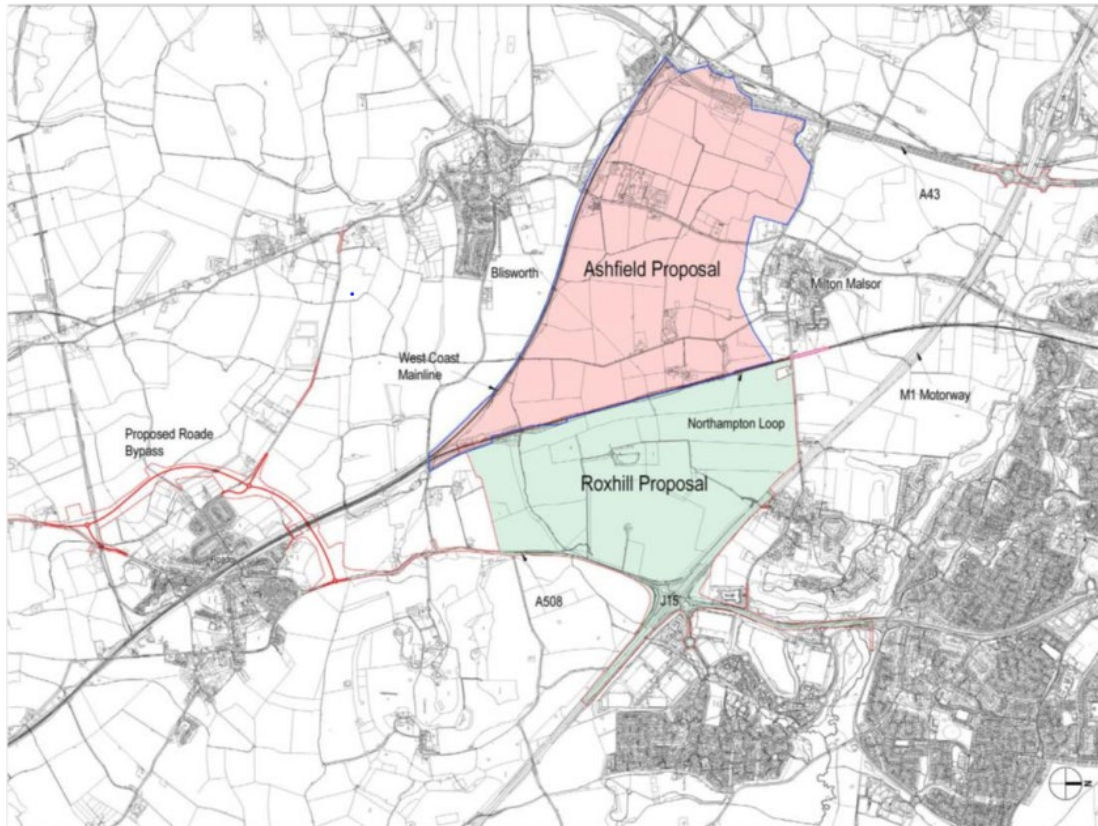
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(WNJCS). However, it was found unsuitable for allocation due to its open countryside location away from the existing urban area and was felt that it would conflict with the desire to provide good linkages between existing and new communities.

2.5. OTHER CONSIDERATIONS

- 2.5.1. The application acknowledges the relationship between it and the nearby Rail Central (RC) application. The RC application was submitted by Ashfield Land Management Limited and Gazeley GLP Northampton s.à.r.l., which comprises a joint venture partnership arrangement between Ashfield Land Management Limited and Gazeley GLP. The RC application was submitted to PINS on 29 October 2018 and accepted for Examination on 15 November 2018.
- 2.5.2. The RC application is for a SRFI linked into both the rail and strategic road network. The RC proposal site is located between the villages of Milton Malsor and Blisworth. The WCML runs to its southern boundary with the NLL of the WCML forming its eastern boundary. Access to the site would be gained from a new junction on the A43 on the western edge of the site. The Northampton Road / Towcester Road linking Milton Malsor with Blisworth would remain, running through the centre of the site, effectively splitting the site into two discrete but linked parts. The RC Project site is currently mainly arable farmland. The below image illustrates the locations of both the RC site and the Proposed Development (the Roade Bypass relates solely to the Proposed Development).

Figure 2 Comparative plan showing the location of the Northampton Gateway proposal and the location of the Rail Central proposal (Appendix 2.4 of Document 5.2) [REP4-008]



2.5.3. In summary terms, the RC proposal comprises:

- an intermodal freight terminal with direct connections to the Northampton Loop Line, capable of accommodating trains of up to 775m long, including up to 3 gantry cranes, container storage, a train maintenance depot and facilities to transfer containers to HGV;
- an express freight terminal with direct connections to the West Coast Main Line, capable of accommodating trains of up to 240m long, a freight platform with associated loading and unloading facilities;
- up to 702,097 sqm of rail-connected and rail-served warehousing and ancillary service buildings including a lorry park, terminal control building and bus terminal;
- new road infrastructure including a new separated access point on the A43(T), an internal site underpass (under Northampton Road) and necessary utilities infrastructure;
- strategic landscaping and open space including alterations to public rights of way, the creation of new ecological enhancement areas and publicly accessible open areas, flood attenuation, and the partial diversion of the Milton Malsor Brook;

- works to Junction 15A of the M1 motorway; and
- other highway works.

- 2.5.4. The Applicant acknowledged the potential interrelationship and cumulative impacts between the Proposed Development and the RC proposal within a number of ES chapters and, specifically, in a document entitled 'Comparative Assessment of Northampton Gateway SRFI and the proposed Rail Central SRFI' [APP-129].
- 2.5.5. In response to the ExA's first written questions [PD-007], the Applicant confirmed it would provide a UCIA of the Proposed Development based on the most up-to-date RC proposal information. This document was accepted by the ExA on 11 January 2019 [AS-040].
- 2.5.6. The cumulative and in-combination impacts of the Proposed Development and the RC proposal are addressed as appropriate in the following chapters within this Report. It was initially anticipated that the Examinations into the Proposed Development and the RC proposal had the potential to overlap. However, the RC applicant requested a delay to the start of its examination which will now take place after the submission of this report.

3. LEGAL AND POLICY CONTEXT

3.1. INTRODUCTION

- 3.1.1. This chapter sets out the relevant and legal policy context for the Application which was considered and applied by the ExA in carrying out its examination and in making its findings and recommendations to the SoS.
- 3.1.2. Within the Planning Statement [APP-376], the Applicant states that the Proposed Development is required in response to a range of national and local economic and policy drivers. In particular, the Applicant contends that the Proposed Development seeks to respond to the objectives set out in the National Policy Statement for National Networks (NSPNN) and fully accords with the requirements and criteria for a Strategic Rail Freight Interchange (SRFI) as defined within the Statement. The Applicant also states that the Proposed Development responds directly to the growing market demand for increased use of rail freight, and the demand for large-scale warehouse space, with the opportunity now and in the future to utilise rail.

3.2. THE PLANNING ACT 2008

- 3.2.1. PA2008 is the principal legislation governing the examination of an application for a NSIP and the decision whether to grant development consent. The Proposed Development qualifies as a NSIP as, when constructed, each of the conditions in s26 is expected to be met.
- 3.2.2. The elements of the Proposed Development which are not encompassed within the NSIP are characterised in the dDCO as applied for as associated development as provided for by s115(2) of PA2008.
- 3.2.3. The NPSNN was designated in December 2014 and, as such, the application falls to be decided under s104 of PA2008. In these circumstances the SoS must have regard to:
- any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant policy statement”);
 - the appropriate marine policy documents (if any), determined in accordance with s59 of the Marine and Coastal Access Act;
 - any local impact report (within the meaning given by PA2008 s60(3)) submitted to the SoS before the specified deadline for submission;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the SoS thinks are both important and relevant to the decision.
- 3.2.4. S104(3) requires the SoS to determine the application in accordance with any relevant national policy statement, except to the extent that one or more of the exceptions in subsections (4) to (8) applies, creating a

presumption in favour of national policy statement-compliant development. The exceptions are that the SoS is satisfied as follows:

- deciding the application in accordance with any relevant national policy statement would lead to the United Kingdom being in breach of any of its international obligations;
- deciding the application in accordance with any relevant national policy statement would lead to the SoS being in breach of any duty imposed on her / him by or under any enactment;
- deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment;
- the adverse impact of the proposed development would outweigh its benefits;
- any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.

3.2.5. PA2008 s10 also places a statutory sustainable development duty on the SoS. The duty makes specific reference to the SoS having regard to the desirability of:

- mitigating and adapting to climate change; and
- achieving good design.

3.3. **NATIONAL POLICY STATEMENT**

3.3.1. National Policy Statements (NPSs) set out Government policy on different types of national infrastructure development. As already commented on, in this instance the NPSNN is the primary NPS for decision-making purposes concerning the Proposed Development and forms the primary policy context for the Examination.

3.3.2. The NPSNN sets out the need for, and the Government's policies to deliver, development of nationally significant infrastructure projects on the national road and rail networks in England and deals specifically with SRFIs.

3.4. **UK LEGISLATION AND POLICY**

The Town and Country Planning Act 1990 (as amended)

3.4.1. The Town and Country Planning Act 1990 (as amended) (TCPA1990) regularises the development of land in England and Wales and includes an expansive code of planning regulations.

The Highways Act 1980

3.4.2. The Highways Act 1980 deals specifically with the management and operation of the road network in England and Wales.

The UK Biodiversity Action Plan

3.4.3. Priority habitats and species are listed in the UK Biodiversity Action Plan. The plan is relevant to the application in view of the biodiversity and ecological considerations are discussed in Chapter 7 of this Report.

The Environment Act 1995

- 3.4.4. The Environment Act 1995, which applies to England, Scotland and Wales, is a wide-ranging piece of legislation and sets standards for environmental management.

Environmental Protection Act 1990

- 3.4.5. S79(1) of the Environmental Protection Act 1990 identifies several matters which are considered to be statutory nuisance. This is discussed in in Chapter 11 of this Report.

Environmental Permitting and Related Policy

- 3.4.6. Development proposals that could:

- pollute air, water or land
- increase flood risk, or
- adversely affect land drainage

may need an Environmental Permit (EP) from the Environment Agency (EA) under the Environmental Permitting (England and Wales) Regulations 2016.

Noise Policy Statement for England

- 3.4.7. The Noise Policy Statement for England (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The statement sets out the long-term vision of the Government's noise policy, which is to *"promote good health and a good quality of life through the effective management of noise within the context of policy on sustainable development"*.
- 3.4.8. The Explanatory Note within the NPSE provides further guidance on defining 'significant adverse effects' and 'adverse effects', one such concept identifies "Lowest Observable Adverse Effect Level (LOAEL)", which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur; and No Observed Effect Level (NOEL), which is the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established.
- 3.4.9. When assessing the effects of the Proposed Development on noise matters, the aims of the development should firstly avoid noise levels above the SOAEL; and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.

Water Resources Act 1991

- 3.4.10. The above Act set out the relevant regulatory controls that provide protection to waterbodies and water resources.

The Public Sector Equality Duty (PSED)

- 3.4.11. Section 149 of the Equality Act 2010 establishes a public sector equality duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not¹³. The PSED is applicable to the Proposed Development, the conduct of the Examination and reporting, and to the SoS in decision-making.

3.5. EUROPEAN LAW AND RELATED UK REGULATIONS

- 3.5.1. The UK is in the process of negotiating departure from the European Union. Following exit day, but subject to negotiation, there is intended to be a further implementation period of up to two years in which the UK will abide by all relevant European law and procedure.
- 3.5.2. At the time of closure of this Examination, European Union law which was extant up to exit day will remain in force and be incorporated into UK law. Although these matters are not yet settled (in terms of the outcome of negotiations or the passage of legislation), this Report has been drafted on the basis that relevant European Union law will remain in force at the point when the SoS decides this Application.

The Air Quality Directive (Council Directive 2008/50/EU)

- 3.5.3. The Air Quality Directive on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It sets limit values for compliance and establishes control actions where the limit values are exceeded for ambient air quality with respect to sulphur dioxide (SO₂), nitrogen dioxide (NO₂) and mono-nitrogen oxides (NO_x), particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide.

The Air Quality Standards Regulations

- 3.5.4. The Air Quality Standards Regulations 2010 give statutory effect to the Air Quality Directive.

The UK Air Quality Strategy

- 3.5.5. The UK Air Quality Strategy 2007 establishes the UK framework for air quality improvements and establishes a long-term vision for improving air quality in the UK and offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address limit value exceedances for individual pollutants. In turn, these plans set the

¹³ Guidance on equalities considerations and protected characteristics under the Equality Act 2010 has been provided by the Government Equalities Office and the Equality and Human Rights Commission (EHRC)
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framework for action in specific local settings where limit value exceedances are found, including the designation of Clean Air Zones and more localised Air Quality Management Areas (AQMAs) where Air Quality Management Plans are prepared by local authorities.

The EIA Directive (Council Directive 2011/92/EU)

- 3.5.6. The EIA Directive defines the procedure by which information about the environmental effects of a project is collected and considered by the relevant decision-making body before consent is granted for a development. It sets thresholds for projects that require an EIA and outlines the impacts on the environment that need to be assessed. The Directive was amended in 2014 and is now implemented through the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Although the Applicant was of the view that the transitional provisions of the 2017 EIA regulations could apply, it provided an ES designed to comply with the requirements of the 2017 EIA Regulations. Accordingly, the ES was treated as being under the 2017 Regulations, rather than the 2009 Regulations.

Habitats Directive (Council Directive 92/43/EEC) and Wild Birds Directive (Council Directive 2009/147/EC)

The Conservation of Habitats and Species Regulations 2017

- 3.5.7. The Habitat Directive and Wild Birds Directive form the cornerstone of Europe's nature conservation policy. The Conservation of Habitats and Species Regulations (the Habitat Regulations) are the principal means by which the Habitats Directive is transposed in England and Wales.
- 3.5.8. The Habitats Regulations came into force on 30 November 2017. They consolidated the Conservation of Habitats and Species Regulations 2010 (the 2010 Habitats Regulations) with subsequent amending instruments, and made minor modifications reflecting changes to related legislation.
- 3.5.9. The Applicant provided a report under the 2017 Habitats Regulations [APP-372] which concluded that there would be no significant effects from the Proposed Development. In response to advice from PINS when the application was accepted, the Applicant provided a revised report on effects on European sites [AS-012]. This is considered further in Chapter 8.

The Water Framework Directive (WFD)

- 3.5.10. Directive 2000/60/EC establishing a framework for Community action in the field of water policy (the WFD) sets objectives to prevent and reduce pollution, environmental protection, improve aquatic ecosystems and mitigate the effects of floods. It provides for the production of River Basin Management Plans to provide for the sustainable management of rivers.

The Water Environment Regulations

- 3.5.11. The WFD is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

3.6. MADE DEVELOPMENT CONSENT ORDERS

- 3.6.1. Two DCOs have been made relating to Rail Freight Interchanges which are considered of relevance to the Application:

- The Daventry International Rail Freight Interchange Alteration Order 2014; and
- The East Midlands Gateway Freight Interchange and Highway Order 2016.

- 3.6.2. The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 and the York Potash Harbour Facilities Order are also cited by the Applicant in the Explanatory Memorandum (EM) [REP6-007] as also providing precedents in the drafting of the dDCO.

3.7. TRANSBOUNDARY EFFECTS

- 3.7.1. Transboundary screening was undertaken under the EIA Regulations by PINS on behalf of the SoS on two occasions. The first screening was in May 2017 following the Applicant's request for a Scoping Opinion, the second in October 2018 following the submission of the Application documents [OD-001].

- 3.7.2. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, and based on the information available from the Applicant, the SoS is of the view that the Proposed Development is unlikely to have significant effects on the environment in another European Economic Area State.

- 3.7.3. In reaching this view, the SoS has applied the precautionary approach (as explained in PINS Advice Note 12 Transboundary Impacts Consultation). Transboundary issues consultation was therefore not considered necessary.

3.8. OTHER RELEVANT POLICY REFERENCES

- 3.8.1. Listed below is the wider policy context considered during the Examination:

- The National Infrastructure Delivery Plan (2016)
- National Strategy for Climate and Energy (2009)

Applicant's Planning Statement [APP-376]

- Network Rail: Unconstrained Forecasts
- Network Rail: Freight and National Passenger Operations Route Strategic Plan (2018)
- Department of Transport (DfT) – Rail Freight Strategy (2016)

- South East Midlands Local Enterprise Partnership – Strategic Economic Plan (2017)
- The National Infrastructure Commission: Partnering for Prosperity: A New Deal for the Cambridge – Milton Keynes – Oxford Arc (2017)

Northamptonshire County Council [REP1-036]

- Northamptonshire Rail Strategy – Fit for Purpose (2013)
- South Northamptonshire Council [REP1-039]
- South Northamptonshire Logistics Study (2017)

Milton Malsor Parish Council [REP1-107]

- Milton Malsor Parish Plan (2005)
- Options for a Neighbourhood Plan (2013)

Mr Andrew Bodman [REP1-061]

- Northamptonshire HGV Parking Study (2009)

Mr Andrew Bodman [REP1-063]

- Northampton Borough Council: Air Quality Management Areas
- South Northamptonshire: Air Quality Management Plan (2017)
- NOMIS: Official Labour Market Statistics (2011)
- Subnational Population Projections
- Northampton Town Transport Strategy
- UK 2018 Vitality Index
- Network Rail: West Coast Main Line Route Utilisation Strategy
- West Coast Main Line and Trans-Pennine Capacity and Performance Assessment
- The Value and Importance of Rail Freight
- Daventry International Rail Freight Interchange III Rail Operations Report
- South Northamptonshire Council: Employment Land Study – Final Report (2013)
- UK Port Freight Statistics (2014)

Mr Andrew Bodman [REP2-14]

- Northamptonshire Rail Capacity Study (2016)
- Network Rail: Northampton Loop Capacity Report

Mr Andrew Bodman [REP6-020]

- London Mayor's Transport Strategy (2018)

Dr Andrew Gough [REP1-065]

- DfT: Transport Infrastructure for our Global Future: A Study of England's Port Connectivity (2018)
- Network Rail: Freight Network Study: Long Term Planning Process (2017)

Stop Roxhill Northampton Gateway Action Group [REP1-054]

- MDS Transmodal: Rail Freight Study (2016)
- Network Rail: The Value and Importance of Rail Freight
- Northamptonshire Rail Capacity Study (2016)
- Network Rail: West Coast Main Line Route Utilisation Strategy (2010)

Stop Roxhill Northampton Gateway Action Group [REP6-041]

- World Health Organisation: Environmental Noise Guidelines for the European Region (2018)

Blisworth Parish Council [REP1-079]

- DfT: Rail Freight Growth & Modal Shift Study (2016)
- DfT: Supplement to the October 2013 Strategic Case for HS2 Technical Annex: Demand and Capacity Pressures and the West Coast Main Line
- MDS Transmodal: The Future of Rail Freight and Private Sector Investment in Infrastructure

Blisworth Parish Council [REP6-023]

- DfT: Strategic Rail Freight Interchange Policy Guidance (2011)
- The European Parliament Study: Freight on Road, Why Shippers Prefer Truck to Train (2015)
- Freight Network Study (Draft) (2016)
- Office of Road and Rail Freight Statistics
- SLC Rail: Northamptonshire Rail Capacity Study (2016)
- NOMIS: Labour Market Statistics (2014-2015)

3.9. **THE NATIONAL PLANNING POLICY FRAMEWORK**

3.9.1. The revised National Planning Policy Framework (NPPF) published in February 2019 and its accompanying Planning Practice Guidance (PPG) set out the Government's planning policies for England and how these are expected to be applied. This is for the particular purpose of making development plans and deciding applications for planning permission and related determinations under the TCPA1990.

3.9.2. At the time the Application was prepared and submitted, the original 2012 NPPF was in force. Following a review, the NPPF was subsequently updated in July 2018. During the ExA's first round of written questions the Applicant was requested to check the application material and revise as necessary in light of the 2018 update [PD-007]. In response [REP1-020], the Applicant confirmed that no revisions to the application documentation were necessary.

3.9.3. Paragraph 5 of the NPPF makes clear that it is not a source of individual or project-specific policy for NSIP decision-making. However, the Applicant has taken the NPPF into account as relevant in preparing the application for the Proposed Development and this is recorded in the Planning Statement [APP-376].

3.10. **LOCAL IMPACT REPORTS**

3.10.1. S104 and s105 of PA2008 state that in deciding an application the SoS must have regard to any LIR within the meaning of s60(3) of PA2008. A LIR is a report made by a relevant local authority giving details of the likely impact of a proposed development on the authority's area (or any part of that area) that had been invited and submitted to the ExA under s60 of PA2008.

3.10.2. The ExA's Rule 6 letter [PD-005] contained its formal request under s60(2) of the PA2008 to eligible local authorities to submit LIRs. Three LIRs have been submitted in accordance with s60(3), from Northamptonshire County Council (NCC) [REP1-036], South Northamptonshire Council (SNC) [REP1-037] and Northampton Borough Council (NBC) [REP1-089].

3.10.3. The LIRs set out the principal local planning policies and other policies relevant to the Proposed Development and provided commentary on the consideration of local impacts.

3.11. **THE DEVELOPMENT PLAN**

3.11.1. The development plan is not a statutory consideration required by s104 of the PA2008. However, in the case of this application the ExA agrees with the Applicant that the Development Plan is important and relevant. Paragraph 1.3 of the NPSNN also confirms the relevance of development plans.

3.11.2. The statutory Development Plan consists of the WNJCS Part One. The WNJCS was prepared and adopted by South Northamptonshire Council, Northampton Borough Council and Daventry District Council in 2014.

3.11.3. The relevant Spatial Objectives within the WNJCS include:

- Objective 1 – Climate Change
- Objective 2 – Infrastructure & Development
- Objective 3 – Connections
- Objective 8 – Economic Advantage
- Objective 9 – Specialist Business Development
- Objective 15 – High Quality Design

3.11.4. Other planning policies within the WNJCS of relevance include:

- BN1 – Green Infrastructure Connections
- BN2 – Biodiversity
- BN3 – Woodland Enhancement and Creation
- BN5 – The Historic Environment and Landscape
- BN7 – Flood Risk
- BN7A – Water Supply, Quality and Wastewater Infrastructure
- BN9 – Planning for Pollution Control
- BN10 – Ground Instability
- C1 – Changing Behaviour and Achieving Modal Shift
- C2 – New Developments
- C3 – Strategic Connections
- C4 – Connecting Urban Areas
- E4 – Daventry International Rail Freight Terminal (DIRFT)
- E6 – Education, Skills and Training
- INF1 – Approach to Infrastructure Delivery Policy
- INF2 – Contributions to Infrastructure Requirements
- R1 – Spatial Strategy for the Rural Areas

- R2 – Rural Economy
- S1 – The Distribution of Development
- S7 – Provision of Jobs
- S8 – Distribution of Jobs
- S10 – Sustainable Development Principles
- S11 – Low Carbon and Renewable Energy

3.11.5. The South Northamptonshire Local Plan (SNLP) was adopted in 1997 and pre-dates the NPPF by over 20 years. However, a number of these policies remain in place for use in development control decisions by SNC. Relevant saved policies of the SNLP include:

- EV7 – Special Landscape Areas
- EV8 – Important Local Gaps
- EV21 – Hedgerows, Ponds and Landscape Features
- EV24 – Species Protection Policy
- EV28 – Historic Parks and Gardens
- EV29 – Landscape Proposals

3.11.6. On 22 January 2019, SNC submitted the South Northamptonshire Part 2 Local Plan (SNLPP2) to the Secretary of State. The emerging SNLPP2 does not include a specific policy to identify important local gaps. A proposed generic policy, Policy SS2, however seeks to ensure sustainable well-designed development respects the context in which it will be set. Policy SS2 recognises the importance of maintaining the individual identity of towns and village and the significance of the open countryside between settlements.

3.11.7. In addition, proposed Policy SDP1, amongst other things, seeks to ensure that development is consistent with South Northamptonshire Design Guide. Objective 10 of the SNLPP2 aims to protect the setting and separate identity of settlements by avoiding their coalescence and retaining the openness and character of land around existing settlements.

3.11.8. SNLPP2 has been submitted to the SoS. Whilst acknowledging that the Plan is currently in examination, it has not yet found to be sound. In addition, s104(3) of the PA2008 requires the SoS to determine the application in accordance with any relevant national policy statement.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. As required by s88 of PA2008 and EPR Rule 5, the ExA made an Initial Assessment of Principal Issues (IAPI) arising from the application. The issues identified in that initial assessment in summary were as follows:

- justification for the transport proposals to meet traffic generation that is forecast by the Proposed Development;
- the capacity of the rail system to serve the Proposed Development;
- the construction and operational effects on road and rail transport systems;
- the impact of the Proposed Development in combination and cumulatively with the potential development of a similar SRFI (Rail Central) on adjacent land, and with other major projects;
- the economic and social impacts, including the scale of potential employment growth, the consequences for labour supply, housing needs, and for local businesses and residents;
- the consequences of the Proposed Development for land use, including the loss of agricultural land, and the appearance and character of the locality;
- the environmental impact of construction and operational noise, air quality and lighting on nearby settlements and on wildlife and habitats;
- impact on the setting of heritage assets;
- impact on the Public Rights of Way (PRoW) system in the locality;
- the content of the DCO; relevant definitions, application and modification of legislative provisions, nature of requirements, discharging of requirements, protective provisions, s106 agreements; and
- compulsory acquisition; nature, extent and scope of land, rights and powers sought by CA, temporary possession powers, project funding and guarantees for compensation, human rights and consideration of alternatives.

4.1.2. The IAPI was provided to all recipients within the Rule 6 letter [PD-005 Appx B] and discussed at the Preliminary Meeting [EV-001, EV-002].

4.1.3. At the PM, the Applicant expressed contentment with the IAPI but suggested that an overarching principal issue to be added should be that of compliance with the NPSNN. For RC, which attended the PM as an IP, it was suggested four further matters should be treated as principal issues, which had been set out in its letter of 2 October 2018 [AS-027]. Three of these stemmed from the potential relationship between the two projects. The additional matters were:

- market demand; whilst the need for a network of SRFIs is established by the NPSNN, both projects had submitted assessments of market demand and the SoS may want to consider both applicants' views on whether there is an existing market demand for (or would be created by) SRFIs in this location;

- the comparative merits of the Proposed Development and the Rail Central project;
- the operational compatibility of the two projects on the rail network; and
- the Proposed Development's impact on climate, which is a specific inclusion in The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

4.1.4. The above matters are considered in the relevant sections and Chapters as appropriate below.

4.1.5. Having regard to comparative assessment, this was carried out by the Applicant within the ES [APP-129]. This was based on information published about the RC scheme in its Phase 2 statutory consultation process available at the time. The assessment was updated during the Examination following the submission and acceptance of the RC application [REP4-008].

4.1.6. Although it appeared likely that the examinations into the two SRFI schemes would follow overlapping paths, the Examination into the RC proposal, as already referred to above, is not now likely to start until December 2019. Decision-making on the RC proposal would be made in the context of the circumstances pertaining at the time of that Examination. The examination of the Proposed Development has therefore been undertaken solely in relation to the submitted application before us.

4.1.7. No other matters were raised at the PM that required amendment to the IAPI.

4.2. ISSUES ARISING IN WRITTEN AND ORAL SUBMISSIONS

4.2.1. This is an application in respect of which there was a substantial level of local opposition and community concern. Objections were both to the principle and detail of the Proposed Development, expressed in the overwhelming majority of the submitted Relevant Representations.

Relevant Representations (RRs)

4.2.2. There was a total of 848 RRs. Many of the principal areas of objection and concern expressed by individuals were encapsulated by the representations of bodies and groups. These included the Parish Councils of Blisworth [RR-031], Collingtree [RR-559], Courtenhall [RR-679], East Hunsbury [RR-460], Hardingstone [RR-412], Milton Malsor [RR-524], Quinton [RR-627], Roade [RR-395], Shutlanger [RR-043], Stoke Bruerne [RR-669], West Hunsbury [RR-633] and a group of 29 parish councils under the umbrella of Parishes Against Pollution [RR-176]. In addition, many of the common views expressed were articulated by the Stop Roxhill Northampton Gateway Action Group (SRNG) [RR-488] as well as by local Members of Parliament, the Rt Hon Andrea Leadsom (the member for South Northamptonshire constituency within which the Proposed

Development lies) [RR-455] and Chris Heaton-Harris (the member for Daventry) [RR-331].

4.2.3. The principal common issues raised can be characterised as follows:

- Principle
 - No need for the facility, particularly given the proximity of the Daventry International Rail Freight Terminal (DIRFT), only 29km away and which has unused capacity.
 - The concentration of SRFIs within the Midlands 'Golden Triangle' is at odds with the intention of SRFI strategy within the NPSNN and the facility would not be serving a major market or conurbation.
 - General failure to comply with NPSNN in terms of overall impact assessment.
 - No alternative site assessment to demonstrate the best location to contribute to a strategic national freight network.
 - Failure to comply with planning policy within the West Northamptonshire Joint Core Strategy (WNJCS) which doesn't envisage SRFI development other than at DIRFT.
 - Concerns about the adequacy of cumulative impact assessment, and compliance with relevant EIA Regulations, especially in the context of the RC SRFI proposal on adjacent land.
 - Concern as to the adequacy of rail capacity on the West Coast Main Line (WCML) and the wider rail network to cater for the projected freight use, and impact on future passenger rail services.
 - Concern about capacity to cater for additional HGV traffic on a road system that is already congested and at capacity.
 - Implications for the local road system, villages and safety from increased traffic.
 - Concern as to modelling of traffic and the effectiveness of proposed mitigation.
 - In an area with low unemployment there are concerns that the proposal overstates the benefits to the local economy and would necessitate commuting from outside the area.
 - Lack of acceptance by RC of the Applicant's assessment methodology and conclusions in respect of assessment of the Proposed Development alongside RC's proposed SRFI.
 - Impact on health and quality of life.
 - To grant consent would be to bypass local democracy when there is a considerable body of expressed opposition.
- Detail
 - Increased air, noise and light pollution.
 - Landscape and visual impact.
 - Loss of countryside and wildlife habitat.
 - Impact on public rights of way.
 - Impact on local heritage assets, including inadequate archaeological assessment.
 - Loss of productive agricultural land.
 - Concern about the potential increase in crime in the area.

Written Representations (WRs)

- 4.2.4. Some 70 WRs were submitted. These amplify the position and points raised in RRs of IPs. Amongst others, there were substantive elaborations from SRNG [REP1-054], Blisworth Parish Council [REP1-079], the two local MPs [REP1-087, REP1-059] Campaign to Protect Rural England (CPRE) [REP1-052], Northampton Rail Users Group (NRUG) [REP1-092], Rail Central [REP1-029, REP1-030, REP1-031, REP1-032], Dr Andrew Gough [REP1-065] and Mr Andrew Bodman [REP1-063].
- 4.2.5. Other than an additional submission provided in relation to archaeology [AS-031], NCC did not provide comments at the RR stage. Within its WR [REP1-035] the Council elaborated on its concerns that the information provided within the ES regarding the known significance of the archaeological potential of the Main Site is inadequate and that further trial trenching should be undertaken pre-consent. NCC accepted that the proposed highway works are necessary and appropriate to mitigate the impact of the Proposed Development, whilst remaining concerned about the potential cumulative impact should both it and the RC scheme be consented.
- 4.2.6. NCC expressed concern as to the potential impact of the Proposed Development on both existing and future rail services.
- 4.2.7. SNC did not provide a RR but in its WR noted its objections to the Proposed Development [REP1-039]. It considered that its location so close to the existing SRFI of DIRFT would undermine the expressed purpose of the NPSNN to deliver an expanded geographical national network. The Council considered that the scale and location of the Proposed Development would represent a significant increase in employment provision which would lead to increased pressure on housing over and above that identified in the WNJCS. This would have the potential to undermine the local economy and local planning policy.
- 4.2.8. SNC further noted the significant adverse impacts on landscape, visual appearance and lighting. Concern was expressed regarding some detailed aspects of the proposed highway mitigation, and the approach to assessment of noise impacts and to cumulative impact, particularly in relation to the RC proposal.
- 4.2.9. NBC did not provide substantive comment in its RR, merely indicating its intention to provide WR, an SoCG and LIR. In its WR [REP1-088] the Council noted the broad consistency of the Proposed Development with the strategic objectives of the NPSNN to increase modal shift from road to rail. Also, that the development could help to deliver the Council's Corporate Plan objective to facilitate economic growth by providing easily-accessed jobs from Northampton. NBC further noted that, in its view, impacts on the Borough's landscape and appearance, the Collingtree Conservation Area and impacts from noise, vibration and lighting could be mitigated.

4.2.10. However, NBC further noted that whilst the scheme could help reduce road-based haulage, a failure to attract rail-related businesses could lead to warehousing occupied by businesses dependent only on road transport. It could also generate more employment than the local labour market could supply, leading to net in-commuting. This could have the potential to lead to recruitment difficulties for local businesses, congestion on the local road network and increases in housing in the local area that has yet to be planned for. There was concern that potential additional traffic had not been fully taken into account, particularly in the context of planned and committed housing growth at Collingtree and Hardingstone. The Council was concerned to ensure that additional rail freight traffic on the NLL would not adversely impact on the availability of paths for passenger services.

4.2.11. The content of the WRs are addressed in Chapter 7 below in relation to relevant planning issues.

Oral Representations

4.2.12. The two OFH held during the Examination [EV-004, EV-023] provided the opportunity for oral submissions. There were 11 speakers at the first OFH and 12 at the second, with some making contributions on both occasions. All submissions opposed the Proposed Development, with points raised reflecting the issues already outlined above. The matters raised are addressed in relation to relevant planning issues in the following sections and Chapters below.

Conclusions on Issues Arising from Submissions

4.2.13. All issues arising from both written and oral submissions have been taken into account by the ExA. Matters arising from the submissions have been carried forward and are addressed as necessary in sections 4.4 – 4.8 and Chapters 5 to 7 of this Report.

4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS

4.3.1. NCC, SNC and NBC each produced a LIR [REP1-036, REP1-037, REP1-089]. These are addressed in turn.

NCC LIR

4.3.2. The LIR divides its appraisal into the following issues framework, the content of which in turn has been considered in this Report in the locations identified below:

- highways; the current traffic situation, current development and highways proposals and the impact of the Proposed Development (Chapter 5);
- rail services; current rail services, NCC's rail service aspirations, current rail industry proposals, and impact of the Proposed Development (Chapter 5);
- archaeological impact; the archaeological knowledge of the surrounding area, the archaeological knowledge of the application site (the Main

Site and that for the Roade Bypass), and impact of the Proposed Development (Chapter 7.5); and

- flood water management and drainage; existing and historic flood risk, current development and watercourse proposals, and impact of the Proposed Development (Chapter 7.9).

SNC LIR

4.3.3. Following a description of the Proposed Development, the purpose of the LIR, a description of the site and surroundings and the planning history of the application site, the LIR outlines the Development Plan background. The policies of both extant and emerging plans that the Council considers may be relevant to the Proposed Development are listed.

4.3.4. The LIR refers to what are considered to be relevant development proposals; the Northampton South Sustainable Urban Extension and DIRFT Phase 3. It then notes that there are no landscape designations directly affecting the site, whilst indicating the landscape character types within which the Proposed Development is situated.

4.3.5. The following local impacts are considered, and these are addressed in the sections of this Report as listed:

- Transport (see Chapter 5);
- Air quality (see Chapter 6);
- Socio-economic impacts (see Chapter 7.1);
- Landscape and visual impacts (see Chapter 7.2);
- Noise, vibration and external lighting (see Chapter 7.3 and 7.7)
- Ecology (see Chapter 7.4);
- Heritage and archaeology (see Chapter 7.5);
- Land contamination (see Chapter 7.10);
- Compliance with local-level policies (discussed within the context of the above topics).

NBC LIR

4.3.6. The LIR follows the same structure as that of the SNC LIR, with a description of the Proposed Development, the purpose of the LIR, site description and planning history. This is followed by an outline of development plan policies considered to be of particular relevance. Reference is made to the Northampton Low Emission Strategy 2071 [sic] – 2025, which forms part of the NBC Air Quality Action Plan.

4.3.7. The following local impacts are considered, and these are addressed in the sections of this Report as listed:

- Transport and highway impacts (see Chapter 5);
- Air quality (see Chapter 6);
- Socio-economic impacts (see Chapter 7.1);
- Noise, vibration and lighting (see Chapter 7.3 and 7.7);
- Landscape and visual impacts (see Chapter 7.2);

Conclusion on LIR Issues

- 4.3.8. All issues arising from the three LIRs have been taken into account. Detailed LIR analysis is carried forward and addressed in the relevant following sections and chapters of this Report to ensure that they are considered as required by the SoS.

4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT

Introduction

- 4.4.1. This section sets out an over-arching background as to the conformity of the Proposed Development with the relevant NPS, identified in Chapter 3 above as being the NPSNN.

National Policy Statement for National Networks (NPSNN)

- 4.4.2. The Applicant analysed the performance of the Proposed Development against relevant policy in the NPSNN within its Planning Statement. The Planning Statement compares the objectives of the Proposed Development with the vision and strategic objectives of the NPSNN [APP-376, Appx 1]. It concludes that, in terms of compliance, the Proposed Development is one which would meet the overarching summary of needs tests set out at the start of Chapter 2 of the NPSNN. Its development would:

- make a significant contribution to local economic activity, facilitating growth and creating a significant number of new jobs;
- the investment in infrastructure would, overall, result in major benefits to journey quality, reliability and safety;
- it would facilitate the transfer of the movement of goods from road to rail and in doing so would help to reduce carbon emissions and contribute towards the move to a low carbon economy; and
- it would incorporate a range of measures to ensure that environmental effects are minimised and that benefits arise wherever possible.

- 4.4.3. The Planning Statement notes the Applicant's agreement with NPSNN paragraph 2.48 that:

"The development of additional capacity at Felixstowe North terminal and the construction of London Gateway will lead to a significant increase in logistics operations. This will increase the need for SRFI development to reduce the dependence on road haulage to serve the major markets."

- 4.4.4. NPSNN paragraph 2.53 sets out the Government's belief that it is important to facilitate the development of the intermodal rail freight industry. The transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change. To facilitate this modal transfer, paragraph 2.54 notes that a network of SRFIs is needed across regions, to serve regional, sub-regional and cross-regional markets. In all cases it is essential that these have good connectivity with both the road and rail networks, in particular the strategic rail freight network. The Applicant views the Proposed

Development as having exceptional access to the strategic rail freight network and to the strategic road network.

4.4.5. Paragraph 2.56 of the NPSNN states:

"The Government has concluded that there is a compelling need for an expanded network of SRFIs. It is important that SRFIs are located near the business markets they will serve – major urban centres, or groups of centres – and are linked to key supply chain routes. Given the locational requirements and the need for effective connections for both rail and road, the number of locations suitable for SRFIs will be limited, which will restrict the scope for developers to identify viable alternative sites."

4.4.6. The Applicant's Market Analysis Report [APP-378] explains the market for the Proposed Development. This concludes that the site is well placed to meet the market it is intended to serve, and it would help to expand the network of SRFIs in the Midlands southwards. The issue of need and justification for the Proposed Development is considered more fully in section 4.7 of this Report below.

4.4.7. NPSNN paragraph 2.51 acknowledges that for developments such as SRFIs it is likely that there would be local impacts in terms of land use and increased road and rail movements, and it is important for the environmental impacts at these locations to be minimised. The ES sets out the conclusion of the assessment of the scheme's impact and how local impacts have been minimised through design and mitigation measures. The various impacts and proposed mitigation are considered in detail in Chapters 5 to 7 which follow.

4.4.8. In terms of detailed locational considerations for SRFIs, which are set out in paragraphs 4.83 – 4.89 of the NPSNN, the Applicant's Planning Statement indicates [APP-376]:

- from the outset, and as secured through Requirements in the dDCO, the facility would be capable of supporting both rail and non-rail commercial activities (para 4.83);
- the Proposed Development would have good access to the strategic road network, which would be enhanced through highway mitigation. It would serve a strong market for logistics and rail freight logistics in the Northampton area and would expand the network of SRFIs in the Midlands southwards (para 4.84);
- the facility would provide direct access to the NLL (part of the West Coast Main Line) with an appropriate gauge clearance (para 4.85);
- the ES notes that the facility could result in the creation of around 7,500 jobs with a gross value added to the economy of around £348 million annually and a total construction investment of around £400 million. There is a suitable available workforce in the area which is expected to grow as a result of household growth in the area, and there could be positive effects on commuting by reducing the amount of net outward movement from south Northamptonshire (para 4.87);
- there would be a number of rail-connected and rail-accessible buildings from the outset, with the first phase of the rail terminal providing an

operational rail network connection and a large area for intermodal handling and container storage (para 4.88); and

- the first phase of the rail terminal would be capable of handling at least four trains per day. There would be a capability of accommodating 775-metre trains from the outset, with a minimisation of the need for shunting, and a capability of ultimately handling 16 trains per day (para 4.89).

- 4.4.9. As far as the views of the three relevant local authorities on conformity with the NPSNN are concerned, the signed SoCG with SNC [AS-058] made no reference. Nonetheless, in response to ExQ 1.0.19 [REP1-038] SNC referred to NPSNN paragraph 2.50. This confirms the need for an expanded network of large SRFIs across the regions to accommodate the long-term growth in rail freight. The NPSNN recognises at paragraph 2.57 that existing operational SRFIs and other intermodal RFIs are situated predominantly in the Midlands and the North whereas, conversely, in London and the South East, away from the deep-sea ports, most intermodal RFI and rail-connected warehousing is on a small scale and / or poorly located in relation to the main urban areas. This means that SRFI capacity needs to be provided at a wide range of locations to provide the flexibility needed to match the changing demands of the market (para 2.58).
- 4.4.10. Against the above background, SNC suggested that with the proximity of DIRFT, which has the capacity to accommodate a considerable volume of rail-served warehousing, the priority for a further terminal so close is very questionable. It considered that over-provision within a geographical location is likely to result in potentially harmful impacts contrary to the intention of policy guidance.
- 4.4.11. There is no reference to NPSNN conformity within the various SoCGs with NCC that relate to drainage, highways, DCO drafting and archaeology [APP-383, AS-006, AS-053, REP1-009, REP1-011, REP3-005]. Neither is any view expressed within written submissions or responses to the ExA's questions. However, towards the latter stages of the Examination, the Council's overall position became known following a resolution of the full Council on 28 February 2019 [REP6-035]. This noted:
- "This Council does not seek to question the validity of SRFI's [sic] per se, but expresses deep concern regarding the suitability of the sites [sic] in question and the potential impact of the proposals on local residents. ..."*
- 4.4.12. The signed SoCG with NBC [REP1-014] notes that the national policy context is explicitly supportive of a network of development of the type proposed. The Proposed Development meets the locational criteria included in the NPSNN with regards to access to strategic road and rail networks, and proximity to markets and key supply chain routes.
- 4.4.13. There has been questioning of the Proposed Development's conformity with the NPSNN from several individuals and organisations (see for example REP1-079, REP1-063, REP1-054, REP1-087). In particular, the

locational characteristics of the Proposed Development have been queried in relation to:

- business markets and conurbations (NPSNN paras 2.45, 2.56);
- whether there would be a reduction in trip mileage of freight movements on national and local road networks (para 2.47);
- whether the scheme would contribute to maximising rail trunk haulage and the minimisation of some elements of secondary distribution legs by road (para 2.44); and
- whether the scheme would contribute to the expansion of a network of SRFIs across the regions especially in areas poorly served by such facilities (paras 2.50, 2.54).

4.4.14. In addition, there has been questioning of compliance with the NPSNN in respect of:

- the existence of an available and economic local workforce (para 4.87);
- the delivery of environmental and social benefits and improvement in the quality of life for communities (paras 3.3, 2.53);
- impacts in terms of appearance, air quality, historic environment and health (paras 4.29, 5.10-5.13, 5.122 and 4.82);
- whether the facility would be capable of increasing the number of trains handled above the minimum of four per day (para 4.89); and
- adequacy of consideration of climate change adaptation and mitigation (paras 4.36-4.38, 4.40-4.42, 4.44 and 5.16-5.19).

4.4.15. Conformity or otherwise with the NPSNN in relation to the Proposed Development's different facets is considered within section 4.7 below in relation to its broad locational characteristics in respect of markets, and in the various sections of Chapters 5 to 7 dealing with individual topics. However, as climate change adaptation and mitigation are cross-cutting considerations these are considered below in terms of the Proposed Development's compliance with the NPSNN. Criticism that the application does not adequately respond to the EIA Regulations 2017 is addressed separately in section 4.8 below.

Climate change

4.4.16. One of the four elements of the Government's vision and strategic objectives for national networks is the support and delivery of environmental goals and the move to a low carbon economy (NPSNN, Chapter 2, p9). Paragraph 2.40 notes that modal shift from road to rail can help reduce transport's carbon emissions. Specifically for SRFIs, paragraph 2.53 notes that the Government believes it is important to facilitate the development of the intermodal rail freight industry, confirming "*(t)he transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change*". How this might be achieved is detailed in paragraph 2.35;

"Rail transport has a crucial role to play in delivering significant reductions in pollution and congestion. Tonne for tonne, rail freight produces 70% less CO₂ than road freight, up to fifteen times lower NO_x emissions and nearly 90% lower PM₁₀ emissions. It also has de-congestion benefits –

depending on its load, each freight train can remove between 43 and 77 HGVs from the road”.

- 4.4.17. NPSNN paragraphs 4.36 – 4.47 address climate change adaptation and how the effects of climate change should be taken into account when developing and consenting infrastructure. Paragraph 4.37 indicates that climate change mitigation is essential to minimise the most dangerous impacts of climate change, with paragraph 4.38 stating that adaptation is necessary to deal with the potential impacts that changes are already having. Any accompanying ES should set out how a proposal would take into account the projected impacts of climate change (para 4.40).

Carbon footprint

- 4.4.18. Stop Roxhill Northampton Gateway (SRNG) has referred to the possibility that embodied carbon within the constructional and operational phases of the Proposed Development might not offset the climate change benefits of the perceived modal shift from road to rail freight during its projected lifetime activity. It suggests that the Applicant’s evidence does not provide an insight or confidence of the total impact in carbon lifecycle terms of converting what is a carbon sink (an agricultural landscape) into a concreted landscape [REP7-016], with reference also to REP6-026].
- 4.4.19. The ExA’s Rule 17 asked for comments on this matter [PD-012]. In response, the Applicant stated that there is no requirement to assess the carbon or greenhouse gas emissions over the lifecycle of a project in the EIA Regulations 2017 and nor is it required by the NPSNN [REP8-003]. Emissions can only be truly measured at source as they occur. There is no single approved methodology for evaluating and assessing greenhouse gas emissions, nor are there established criteria or any defined significance thresholds.
- 4.4.20. The Applicant noted that RC had done this exercise in relation to its project. However, the Applicant viewed this as an academic exercise with little value given the inherent uncertainties and the extensive assumptions upon which such an exercise is based. The Proposed Development has, however, had regard to its principal operational implications with regards CO₂ emissions in terms of HGV mileage reduction benefits and the need for energy efficiency of the proposed warehousing.

The ExA’s Considerations

- 4.4.21. Given the thrust of the NPSNN in its support for the development of intermodal rail freight within the context of climate considerations, the Proposed Development is in accord. The ES accompanying the application has addressed climate change in both how the scheme could mitigate its effects as well as how it has been designed to adapt to changes, as discussed in relevant sections of Chapter 7 below, (such as in regard to flood risk).
- 4.4.22. The ES contains a Sustainability Statement [APP-127]. This aims to ensure delivery of low carbon and energy efficiency in design and

construction¹⁴. Requirement (Req) 8 of the recommended dDCO requires the future approval of the detailed design of various elements of the Proposed development, including built development and design (which would include external materials and sustainable energy measures). It also requires the provision of a minimum of 5% of total car parking spaces as having electric charging points, with passive provision for a further 15% of the total spaces. Req 16 requires the Proposed Development to comply with the principles set out in the Sustainability Statement and additionally requires the demonstration that warehousing would achieve at least a BREEAM¹⁵ 2018 'Very Good' rating (BREEAM Industrial 2008 'excellent'). These would assist in ensuring the delivery of both passive and best-practice measures to reduce CO₂ emissions and the promotion of sustainability.

- 4.4.23. The ExA considers the Applicant's arguments as to the utility of any carbon lifecycle assessment for a project of this nature are valid for the reasons it has set out. The absence of such assessment is not therefore a failing of the Application.

Conclusion

- 4.4.24. The compliance of the Proposed Development has been examined against policy detail and tests applicable to individual planning issues as set out in the relevant NPSNN paragraphs, and this analysis is carried out in the following sections and Chapters 5 to 7 below. In respect of climate change, both in terms of mitigation and adaptation, the ExA considers that the Proposed Development would be in broad accord with the thrust and intent of the NPSNN. The issue of compliance with the EIA Regulations 2017 in respect of how climate change has been considered is dealt with in section 4.8 below.

4.5. CONFORMITY WITH THE DEVELOPMENT PLAN

Introduction

- 4.5.1. This section sets out the background in respect of conformity of the Proposed Development with relevant Development Plan policies.
- 4.5.2. Section 3.12 of the Report sets out the Development Plan documents as identified by the Applicant in its Planning Statement [APP-376] and by other IPs in written submissions as relevant to the assessment of the Proposed Development.

Policies

- 4.5.3. The West Northamptonshire Joint Core Strategy Local Plan (Part 1) (WNJCS) provides the strategic planning policy framework for West

¹⁴ In this regard the Proposed Development accords with Objective 1 of the WNJCS, which seeks to promote sustainable design and construction in all new development

¹⁵ Building Research Establishment Environmental Assessment Method
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Northamptonshire and forms part of the Development Plan framework for South Northamptonshire, Daventry District and Northampton Borough up to 2029. The Plan details the locations and scale for both the housing and employment needs of the area.

4.5.4. WNJCS employment policies seek to sustain existing sectors and to grow and diversify the local economy whilst maintaining the balance between the need for new homes and employment. Within the WNJCS the SRFI site is not allocated and there are no site-specific policies which apply directly to it. The site is not in a designated landscape or heritage area and has no other local designations or allocations. A small part of the southern end of the Roade Bypass Corridor extends into a locally designated landscape area (the Tove Valley Special Landscape Area) [APP-083], para 4.3.22].

4.5.5. The Applicant's Planning Statement notes that the spatial strategy set out in Policy S1 of the WNJCS indicates "*Development will be concentrated primarily in and adjoining the principal urban area of Northampton*". The Statement also notes that the WNJCS did not anticipate further SRFIs during the plan period to 2029 (beyond that approved in 2014 for DIRFT Phase 3). However, having regards the principle of further SRFIs coming forward, the WNJCS states at paragraph 5.72:

"The local authorities in West Northamptonshire will continue to work with Network Rail and the freight industry to consider and support further sustainable opportunities for rail freight interchanges in the longer term once the opportunities for additional access onto the rail network to support viable rail freight interchanges are confirmed."

4.5.6. The Applicant's Planning Statement does not record conflict with any of the WNJCS objectives or policies referred to within the Statement.

4.5.7. Having regards the views of the three relevant local authorities on Development Plan conformity, SNC notes in its LIR [REP1-037, para 34] that the:

"Proposed Development has the potential to undermine the adopted WNJCS in terms of both the scale and the distribution of development. The harm that will arise from the contradiction with the Development Plan in terms of the distribution of development and the balance of land uses will not be mitigated through the development proposal".

4.5.8. SNC further notes that, whilst the WNJCS is being reviewed, the present version has an up-to-date evidence base, is in conformity with the requirements for plan-making and its policies are relevant to the proper planning of the area. The Proposed Development should be assessed against plan objectives and policies to ensure appropriate measures are included to mitigate significant local impacts.

4.5.9. NBC's LIR [REP1-089] is largely silent on conformity with the WNJCS, whilst listing policies within it which it considers to be of particular relevance. The Council indicates that there are no relevant policies in respect of the Proposed Development within the Northampton Local Plan.
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- 4.5.10. In neither NCC's LIR [REP1-036] nor its WR [REP1-035] is reference made to the WNJCS.
- 4.5.11. Various IPs have disputed the Proposed Development's conformity with the WNJCS. Amongst these, Blisworth Parish Council has provided a critique against various elements of the Strategy [REP1-079]. It has drawn attention to the Strategy's expectation that new large warehousing development would normally be expected to be provided at DIRFT and that new RFIs in West Northamptonshire in addition to DIRFT are not considered deliverable within the plan period (paras 5.71 and 5.72 of the Strategy). This is echoed in the WRs of Milton Malsor Parish Council [REP1-107], Stop Roxhill Northampton Gateway (SRNG) [REP1-054], Andrea Leadsom MP [REP1-087], Andrew Bodman [REP1-063], and Christopher Mair [REP1-046].
- 4.5.12. Amongst other expressed concerns in respect of Development Plan policy compliance are those which indicate that the Proposed Development would be in breach of saved Policy EV8 of the South Northamptonshire Local Plan [REP1-063, REP1-054]. This states that:
- "In order to prevent the coalescence of settlements the council will not permit development which would significantly intrude into the following important local gaps as shown on the proposals maps: A) Between the Northampton Borough boundary and the nearby villages and hamlets of Harpole, Kislingbury, Rothersthorpe, Courteenhall, Milton Malsor, Preston Deanery, Little Houghton and Cogenhoe".*
- 4.5.13. Reference has been made to the WNJCS Part 2. This is an emerging plan and in light of the early stage reached in its progress to adoption the ExA has accorded it little weight.
- 4.5.14. For completeness it should be noted that the ExA was not referred to any plan policies from Neighbourhood Plans.

Conclusion on the Development Plan

- 4.5.15. The above section sets out the general background of the Development Plan. Policy other than that arising from the NPSNN is capable of being important and relevant¹⁶. The Proposed Development's compliance or otherwise with Development Plan policies considered relevant is identified and analysed further in relation to the individual planning topics in the following sections and Chapters. Weight has been given to development plan policies in accordance with the stage reached in the plan-making process as indicated in paragraph 5.173 of the NPSNN.
- 4.5.16. The ExA has not been referred to any relevant policies arising from Neighbourhood Plans.

¹⁶ PA2008 s104(2)(d)
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4.6. APPLICATION OF OTHER POLICIES

- 4.6.1. Reference has been made to the National Planning Policy Framework (NPPF) both within the Applicant's Planning Statement and as relevant throughout the ES. As noted in section 3.10 of Chapter 3 above, paragraph 5 of the NPPF makes clear that it is not a source of individual or project-specific policy for NSIP decision-making. The NPSNN states at paragraph 1.18 that the NPPF is *"likely to be an important and relevant consideration in decisions on nationally significant infrastructure projects, but only to the extent relevant to that project"*. Paragraph 1.19 states:

"However, the NPPF makes clear that it is not intended to contain specific policies for NSIPs where quite particular considerations can apply. The NPS will assume that function and provide transport policy which will guide individual development brought under it".

- 4.6.2. NPPF policies have been considered in respect of all planning issues addressed later in the following Chapters. They are drawn out there only where they identify different or additional considerations arising from the NPSNN.
- 4.6.3. Other policies are addressed as appropriate in relation to individual topics that are discussed.

4.7. THE NEED FOR THE DEVELOPMENT

Introduction

- 4.7.1. Through its Application, and subsequently through the Examination, the Applicant has sought to justify the need for the Proposed Development. In addition to objections to specific aspects of the scheme, the question of need has been challenged by numerous IPs, having regards to compliance with the NPSNN and local planning policy in the WJCS. We therefore consider it necessary to address this issue before examining the more specific planning matters relating to the Proposed Development.

Issues

The NPSNN

- 4.7.2. Paragraph 2.44 of the NPSNN sets out the aim of an SRFI is to;
- "... optimise the use of rail in the freight journey by maximising rail trunk haul and minimising some elements of the secondary distribution leg by road, through co-location of other distribution and freight activities. SRFIs are a key element in reducing the cost to users of moving freight by rail and are important in facilitating the transfer of freight from road to rail, thereby reducing trip mileage of freight movements on both the national and local road networks"*.
- 4.7.3. The NPSNN sets out various expectations that an SRFI should fulfil. In accordance with paragraph 4.83 they should be *"not only locations for freight access to the railway but also locations for businesses capable now*

or in the future, of supporting their commercial activities by rail. Therefore, from the outset, a rail freight interchange (RFI) should be developed in a form that can accommodate both rail and non-rail activities". Similarly, paragraph 4.88 requires that;

"Applications for a proposed SRFI should provide for a number of rail connected or rail accessible buildings for initial take up, plus rail infrastructure to allow more extensive rail connection within the site in the longer term. The initial stages of the development must provide an operational rail network connection and areas for intermodal handling and container storage. It is not essential for all buildings on the site to be rail connected from the outset, but a significant element should be".

- 4.7.4. The Proposed Development would have direct rail linkage from both the north and the south to the Northampton Loop Line, which is part of the WCML. The technical feasibility of this is discussed further in Chapter 5 below. We are very conscious that the question of rail linkage at the initial stages of development of an SRFI was a major issue within the Examination and the SoS's decision on the East Midlands Gateway SRFI NSIP proposal. The circumstances with the Proposed Development are somewhat different and the issue of the securing of an early rail connection was discussed during the Examination. In the present case there has been no suggestion that there are any impediments to delivering the rail terminal ahead of occupation of the warehousing.
- 4.7.5. Req 3(3) of the dDCO with the amendments we recommend, which is considered in detail in Chapter 11 of this Report, would ensure that an operational rail terminal is completed and available prior to the occupation of any warehousing unit. As such, we consider that there would be clear compliance with paragraph 4.88 of the NPSNN. This requires the initial stages of the development to provide an operational rail network connection and areas for intermodal handling and container storage. The version of Req 3(3) in the last version of the dDCO [REP6-006], whilst it required a rail terminal to be provided prior to occupation of any warehousing, would have allowed up to 140,400 sqm of warehousing to be occupied if the Relevant Planning Authority (RPA) approved. We discuss this at Chapter 11 below and conclude that such a 'tailpiece' wording would not meet the policy in paragraphs 4.88 and 4.89.
- 4.7.6. The rail terminal would provide a large area for intermodal handling and container storage. Req 3 would also ensure that rail provision is made alongside the different development zones within the Main Site prior to the occupation of warehouse units within these different zones. Over 60% of the warehousing units would have the potential to be directly rail-connected, the balance being rail-served¹⁷.
- 4.7.7. Paragraph 4.84 of the NPSNN notes that *"(B)ecause the vast majority of freight in the UK is moved by road, proposed new rail freight interchanges should have good road access as this will allow rail to effectively compete*

¹⁷ Ready connection from rail via internal road linkage within the Main Site
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with, and work alongside, road freight to achieve a modal shift to rail”.

Being immediately adjacent to Junction 15 of the M1, along which the vast majority of road haulage would take place in its initial or end stages, the Proposed Development would have good access to the Strategic Road Network, aided by the proposed highway mitigation works.

- 4.7.8. NPSNN paragraph 4.84 also states that *“(G)iven the strategic nature of large rail freight interchanges it is important that new SRFIs..., are appropriately located relative to the markets they will serve, which will focus largely on major urban centres, or groups of centres, and key supply chain routes”.* This particular issue is considered further below.
- 4.7.9. Paragraph 4.85 of the NPSNN notes that as a minimum a SRFI should ideally be located on a route with a gauge capability of W8 or more or be capable of enhancement to a suitable gauge. The NLL is cleared to Network Rail’s W10 structure gauge and the Applicant’s Planning Statement [APP-376] states that this provides the best access of any route on the national rail network.
- 4.7.10. In accordance with paragraph 4.89 of NPSNN, a SRFI should be capable of handling four trains per day and, where possible, be capable of increasing the number of trains handled. They should also be capable of handling trains of 775m in length and have an appropriately configured on-site infrastructure and layout to minimise the need for on-site rail shunting and ideally allow main line access for trains from either direction. The Proposed Development would be capable of handling trains of this length, has on-site shunting facilities and could be accessed off the NLL main line from both ends. The capability of handling four trains per day is achievable, as discussed further in Chapter 5 below. The intention would be for the facility to handle up to 16 trains per day, with the form of the terminal allowing for flexibility in its use and expansion, including an aggregates facility / terminal and the future provision of a rapid rail freight facility.
- 4.7.11. NPSNN paragraph 4.87 notes that SRFIs can provide many benefits for the local economy, including the creation of many job opportunities because of their labour-intensive nature. The existence of an available and economic workforce will therefore be an important consideration. The Applicant’s ES Chapter 3 [APP-082] estimates that the Proposed Development could create up to 7,500 jobs with a gross value added to the economy of £348m annually. It also concludes there is a suitable available workforce in the area, which is expected to grow as a result of household growth in the area. These aspects are discussed further in Chapter 7.1 below.
- 4.7.12. Because of the nature of the Proposed Development we are satisfied that the scheme should be regarded as a SRFI in NPSNN terms and considered accordingly.

Objections

- 4.7.13. A recurring theme of objection made by many IPs is that there is an inadequate need justification for the Proposed Development; the case has

not been made for a scheme of national importance in this location at this time. This is bearing in mind the proximity of the existing DIRFT facility, the largest SRFI in the UK only some 29km to the north, with its capacity for expansion, and the assumptions within the WNJCS that large-scale strategic distribution activities would take place there and not elsewhere [REP1-046, REP1-054, REP1-063, REP1-065, REP1-107].

- 4.7.14. Furthermore, there is concern that the Proposed Development would not serve an existing conurbation or major market. It is suggested that the additional concentration of SRFIs within the East Midlands would be contrary to the intent of the NPSNN which, at para 2.50, confirms the need for an expanded network of large SRFIs across the regions to accommodate the long-term growth in rail freight [eg REP1-063, REP1-079, REP2-017]. This is further reinforced at paragraph 2.54 which notes that: *"to facilitate this modal transfer, a network of SRFIs is needed across the regions, to serve regional, sub-regional and cross-regional markets"*.
- 4.7.15. At NPSNN paragraph 2.58 it is noted that SRFI capacity needs to be provided at a wide range of locations to provide the flexibility needed to match the changing demands of the market. There is concern that, instead of contributing to a network, the Proposed Development would merely add to a cluster of SRFIs centred on the Midlands and would be non-compliant with the NPSNN [REP1-079, section 1.2, REP6-020]. It is suggested that the Midlands is better served by SRFIs than any other part of the country and that it would be better to provide SRFIs in the North West or Yorkshire [REP2-012 (comment on the Applicant's response to EXQ 1.0.19 and 1.0.28), REP3-019]. Analysis of freight train movement from Felixstowe and Southampton shows that the majority were to the North West, Yorkshire and the West Midlands [REP1-063].
- 4.7.16. Blisworth Parish Council stated that despite the Applicant's assertions that there has been a rise in demand for rail freight, all measures of freight transport moved, freight lifted, kilometres travelled, and freight train movements fell between 1% and 5.6% between 2016-17 and 2017-18 according to Office of Road and Rail statistics. Insufficient consideration has been given to the over-supply of rail-served warehousing that could result from the concurrent development of DIRFT, East Midlands Gateway and, potentially, the Proposed Development, Rail Central, West Midlands Interchange and a proposal for an SRFI at Hinckley¹⁸ [REP6-022].
- 4.7.17. The strategic nature of the Proposed Development has also been challenged by SRNG [REP1-054]. This is on the basis of the above reasons and also because the proposal would be situated midway between Birmingham and London – major centres of production and consumption – rather than being located at a major node. Also, it would be too close to points of origin to permit economic rail freight use for most users [REP3-019]. The clustering of existing and proposed SRFIs in the Midlands does not align with the intent of policy and it is suggested that the Applicant is merely 'dressing up' a warehouse park as an SRFI purely to obtain consent

¹⁸ At the time of writing an application for this project had not been submitted
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by the back door [REP6-023]. A similar querying of the 'strategic' credentials of the proposal has been made by Blisworth Parish Council [REP6-022].

4.7.18. Further criticism is levelled on the basis of perceived deficiencies in the assessment of alternative sites, with an effective offering of only the Proposed Development and the neighbouring RC scheme [REP1-065]. It has been argued that there should have been a more detailed examination of Hinckley as a possible alternative. Further, it is suggested that there have been failures to comply with legislative requirements in this regard, having not considered a sufficient number of alternatives [REP1-063, REP3-020, REP3-021]. This contrasts with other proposals, such as Rail Central (25 sites considered), and the ES for DIRFT III (seven sites considered in detail) [REP1-063, REP1-065].

4.7.19. Assessments of need have been undertaken by Dr Andrew Gough based on his own assumptions and conclusions¹⁹ [REP1-065]. These include:

- The suggestion that against Network Rail's published forecasts of assumed rail-connected warehousing that would be brought forward in South Northamptonshire by 2023/4, in addition to the expansion of DIRFT III, the Proposed Development would represent a 145% over-provision of rail-served warehousing. If consented, the Proposed Development would risk the environmental success of DIRFT by creating a situation whereby both sites competed for the same train paths.
- Market demand for the Proposed Development is primarily driven by a shortage of high-quality, large-footprint buildings, not by any proven desire to enact modal shift.
- Following analysis, it is suggested that only one of the three schemes for the East Midlands (the Proposed Development, Rail Central and Hinckley National Rail Freight Interchange) is shown to be needed in the medium term, in addition to DIRFT III. A strategic model of UK freight flows suggests that the Proposed Development is the least attractive of the three sites considered.
- Planned investment in the Strategic Rail Network targets the major freight flows from Felixstowe and Southampton to the West Midlands, effectively bypassing the Proposed Development to the west and the north. Alternative sites exist that are better able to take advantage of investment made in infrastructure schemes. Priority should be given to filling gaps in the national network of SRFIs through schemes that provide new routes to the deep-water ports from locations north of the A14 / M6 corridor, such as Hinckley and West Midlands Interchange.

The Applicant's case

4.7.20. The Applicant's justification for the chosen location of the Proposed Development is underpinned by a detailed Market Analysis Report [REP1-

¹⁹ Dr Gough also provides a detailed critique of the socio-economic impacts of the scheme which are considered in Chapter 7 below.

004²⁰] which accompanied the application, with points summarised in its Planning Statement [APP-376]. Much of the criticism of the justification for the scheme stems from the arguments that its location would be unattractive for rail freight use as this would be uneconomic, given distances likely to be involved, and the lack of capacity on the network. [REP1-079, REP2-017]. Rail capacity is considered in Chapter 5 below.

- 4.7.21. The Market Analysis Report notes that the logistics property market has been exceptionally strong over recent years, driven by the continued growth of the economy but also structural changes (particularly the increase in e-retailing) which have driven demand. The nature of demand for logistics space has led to a concentration of locational choice in the centre of the country. This is what has been referred to elsewhere²¹ as the 'golden triangle', or which the Market Analysis Report has defined as the Midlands Distribution Heartlands.
- 4.7.22. The report notes that the site for the Proposed Development puts around 87% of the UK population within a 4.5-hour HGV drive time (a day's round trip) and 77% within a 2.5-hour HGV drive time. 32% of the population would be within a 90-minute drive time. Being in the southern part of the Midlands Heartland would mean that the 90-minute HGV drive time encompasses the majority of London, but also Birmingham, Coventry, Nottingham, Leicester and Derby. It would also serve centres such as Northampton, Milton Keynes and Oxford, as well as the Oxford-Cambridge corridor which is identified for significant growth.
- 4.7.23. As NPSNN paragraph 2.43 notes, for many freight movements rail is unable to undertake a full end-to-end journey for the goods. Rail freight interchanges enable freight to be transferred between transport modes, thus allowing rail to be used to best effect to undertake the long-haul primary trunk journey, with other modes (usually road) providing the secondary (final delivery) leg of the journey. The Market Analysis Report suggests that the lack of rail freight interchanges has unquestionably constrained the use of rail [REP1-004, para 5.4].
- 4.7.24. Rail freight is forecast to grow, with NPSNN paragraph 2.49 noting industry forecasts, working with Network Rail (NR), of growth to 2023 and 2033 demonstrating the scale of pressure; forecasts that the Government has accepted for planning purposes. The Rail Freight Strategy published by DfT in September 2016 sets out 'constrained'²² forecasts of future rail freight growth. It considers the opportunities for enhancing modal shift from road to rail in line with the Government's curb on emissions targets, and the policy interventions necessary to achieve this. The strategy notes

²⁰ This is the revised Market Analysis Report that was provided following ExQ 1.0.20 which requested that all data be in metric, rather than a mix of Imperial and metric. This was the only change made to this report

²¹ See RC's Market Assessment Report [REP1-030, Appendix 7]

²² Taking account of the existing capacity of the Network Rail network and incorporating only declared policy interventions outlined in DfT's Control Period 5 High Level Output Statement of July 2012 or other more recent policy statements

that ports' intermodal traffic will at least double in size by 2030, with domestic intermodal traffic projected to nearly double [REP1-004, para 6.9]²³.

- 4.7.25. The users of rail freight terminals are typically moving goods by rail to be sent to national and large regional distribution centres either on an SRFI site or within a reasonable catchment around the terminal to then be moved onwards to their next destinations, usually by road but sometimes also by rail. The Market Analysis Report notes at paragraph 7.12:

"This is partly due to the cost-efficiency of rail freight versus road freight whereby rail is more cost efficient than road over longer journeys. Demand for rail-freight terminal services and for rail served warehousing is therefore strongly governed by the locational requirements of NDC's and large RDC's. As explained..., the demand for large scale logistics is strongest in the Midlands Heartlands at locations with good access to the motorway network where occupiers can serve a large proportion of the UK population within appropriate drive times."

- 4.7.26. At paragraph 7.13 the report states:

"SRFIs will inevitably need to be concentrated, albeit not exclusively, in the centre of the UK where locations have greatest access to UK markets and where a large number of NDC and major RDC's are located and will continue to be located."

- 4.7.27. The Market Analysis Report notes the evidence that the majority of road journeys from warehousing on a rail freight terminal site, in order to minimise the secondary leg of a journey, will be within a core catchment which may be no more than 15km. A secondary catchment of around 50km would be likely to incorporate the majority of logistic operators who would use the facility. Given these core and secondary catchments, the report notes that there will be some overlap between the catchments of the concentration of terminals in the Midlands (DIRFT, Hams Hall and Birmingham International Freight Terminal (BIFT) and a major RFI at Birmingham Freightliner) [REP1-004, Figures 11 and 12].

- 4.7.28. The report goes on to state that, despite their proximity, there is sufficient volume of demand to make multiple terminals viable and, indeed, are needed to meet this demand. Further, the overlapping nature of the catchments does not mean that each is perfectly interchangeable for one another in terms of the services provided, the destinations and routes served or the business needs of each user; they will to a greater or lesser extent serve different markets and the Proposed Development would

²³ The Freight and National Passenger Operators Route Strategic Plan 2018, relating to access for freight on the national rail network concludes that national growth in overall rail freight traffic is likely to be annually 2.1% per year between 2016/17 and 2023/24. The Applicant's Rail Reports [APP-377] consider that this masks the growth of intermodal and aggregates traffic which is balancing the decline in traditional rail freight commodities, such as coal and metals, and that the FNPO is forecasting growth in the intermodal and aggregates sector of nearly 4% per year

expand the network southwards [REP1-004, para 7.24]. Catchments for existing SRFIs already overlap but this has not prevented their growth.

4.7.29. Appendix A2 of the Market Analysis Report looks at the potential demand for rail freight use within the Proposed Development's likely catchment area including those potential users closer to Northampton Gateway than to DIRFT. The analysis indicates that, based on current and future warehousing space, there is a significant pool of potential users within the identified 50km catchment – some 192 existing warehouse units above a size threshold of 9,290 sqm (a scale that would have the potential for use of rail freight services), totalling 4.87m sqm. A further 940,770 sqm of new floorspace in units above this size on marketed development land is also identified. This is in addition to those who would occupy the Proposed Development itself. The report suggests that a significant proportion of users is unlikely to find it feasible to utilise any current rail facility and would therefore be entirely road-based in the absence of new rail provision.

4.7.30. The report concludes at paragraph 10.7 that the:

"use of rail in the logistics sector is expected to continue to grow as the benefits of using rail compared to purely road-based logistics increases and awareness grows. The provision of additional SRFIs is essential if growth is not going to be throttled by lack of appropriate infrastructure to facilitate this modal shift. Furthermore, new SRFIs must be concentrated where demand is greatest, in particular in locations where there is a concentration of logistics space, particularly National Distribution Centres and where demand for logistics space will continue to grow. Without the provision of new SRFIs in these locations, logistic operators will be forced to continue to utilise road as their only method of freight distribution". Without the provision of new SRFIs in these locations, logistics operators will be forced to continue to utilise road as their only method of freight distribution [REP1-004, para 10.7].

4.7.31. The Market Analysis Report provides an explanation of the research undertaken to inform the understanding of the relevant market area that would be served. The Applicant considers it was not appropriate or necessary to consider alternative sites located in other regions of the country, or sites in other parts of the East Midlands, which would clearly serve a different core market area.

4.7.32. Section 4 and Appendix 1 of the Market Analysis Report provide a detailed analysis of the logistics sector. These indicate the strong demand for logistics space within the Midlands, including strong demand in the southern part of the area which has strong links to the London market. Paragraph 4.23 notes that:

"This demand is expected to continue in the future and significant areas of land, in suitable locations close to the trunk road network, will be required. Take-up will continue to be heavily focused on non-rail served sites, unless new Strategic Rail Freight interchange sites can be brought forward."

- 4.7.33. In answer to ExQ 1.0.32 [REP1-020] the Applicant notes that, because this potential new floorspace is committed on existing road-based sites in an area of strong logistics demand, the floorspace would come on stream whether the Proposed Development goes ahead or not; without a new SRFI this development would be road-served.
- 4.7.34. NR is required by the Secretary of State for Transport (SoST) to have regard for the growth of the rail freight sector and NR views the intermodal market as one of the key sectors which is driving rail freight growth and the resultant modal shift from road to rail. NR's National Passenger Operators Route Strategic Plan, 2018, includes a vision to facilitate significant rail freight growth over the next 15 years. The Plan specifically states that NR will facilitate new terminal developments which include Daventry and Northampton. The SoCG with NR confirms NR's support in principle for the development of an SRFI at Northampton [REP1-016, para 11].
- 4.7.35. Concern has been expressed by Dr Gough as to the forecasting mechanism used in quantifying the demand for new rail-connected facilities. It is suggested that only one of three schemes proposed for the East Midlands - the Proposed Development, Rail Central or a scheme for a rail freight interchange at Hinckley - could reasonably be claimed to be needed in the medium-term, in addition to DIRFT III [REP1-065].
- 4.7.36. However, Section 7 of the Applicant's Market Analysis Report defines the markets served by rail terminals and plots the extent to which the market for existing and proposed terminals would overlap. It concludes that the existing concentration of SRFIs in the Midlands is not surprising and is wholly consistent with the concentration of logistics within this area generally with, importantly, the concentration of national distribution centres. Section 8 of the Report identifies a strong logistics market in the immediate vicinity of Northampton, which is not currently well-served by DIRFT or other SRFIs. It notes the potential to expand the network of SRFIs to address markets not currently well served and to help meet anticipated growth in rail freight.
- 4.7.37. The Applicant rebuts the conclusion of Dr Gough that the Proposed Development would result in a 145% over-provision of rail-served warehousing, indicating that this does not reflect the figures presented or have any regard to the purpose of those figures. The Applicant considers the conclusion is extremely misleading on the basis that the figures set out as rail freight forecasts are not intended to dictate or control the amount or location of new SRFIs or rail-served warehousing [REP2-010].
- 4.7.38. The Applicant also provides a detailed rebuttal to Dr Gough's suggestion that Hinckley is a suitable alternative to the Proposed Development, pointing out what it considers to be several inaccuracies. Also, the fact that Hinckley would not be an alternative as it would not address the markets which the Northampton Gateway would serve [REP2-010].
- 4.7.39. In response to the suggestion that rail investment on the Felixstowe to Nuneaton route and from the West Midlands to Southampton would
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effectively bypass the Proposed Development, the Applicant notes these are works on particular lines to help train-operating companies run longer trains and improve capacity. They are part of ongoing improvements to the network generally and do not represent a bypassing of the Proposed Development [REP2-010].

The ExA's Considerations

- 4.7.40. The ExA has carefully considered the arguments advanced regarding the overall justification for the Proposed Development.
- 4.7.41. NPSNN notes at paragraph 2.56 the Government's conclusion that there is a compelling need for an expanded network of SRFIs. The NPS also indicates that it is important that new SRFIs are appropriately located relative to the markets they would serve (para 4.84). The Proposed Development would be an addition to this network, expanding provision to the southern section of the East Midlands market.
- 4.7.42. The Applicant suggests the Proposed Development would serve much of the London market, although the 50km catchment that would be served by it (as shown in Figure 10 within the Market Analysis Report) does not stretch as far as the M25. Given this, the ExA questioned the rationale for this proposition (ExQ 2.0.4). The Applicant responded noting that the catchment area of 50km would be likely to incorporate the majority of logistics operators who would use a terminal [REP5-021]. Further, the Applicant notes that the location of Northampton Gateway would be within a 90-minute HGV drive time of the majority of London.
- 4.7.43. The Applicant notes that, given that it is anticipated that the majority of warehousing served by the Proposed Development would be national or large regional distribution centres, the secondary (or final delivery) leg of goods journeys would often be over a large area, and may incorporate London. This means that imported goods could be delivered to a national distribution centre at or within the 'catchment' of Northampton Gateway, sorted, stored and then processed for onward distribution, with secondary destinations across large parts of the UK, including particularly good access to London.
- 4.7.44. In its WR on the Proposed Development, RC refers to its Market Assessment report that has been submitted as part of its application [REP1-030, with the report at Appendix 7]. That report concludes that the Midlands is the largest logistics property market in Great Britain and the East Midlands has attracted the largest regional share of take-up of any region, with the 'Golden Triangle' as the epicentre for UK logistics. This is the key area for national distribution centres and includes many regional distribution centres. It is further noted that;

"Within the 'Golden Triangle' the catchment areas of the existing SRFIs (and other distribution parks without rail access) overlap to varying extents but this has not prevented each from growing and developing because of strong demand, as highlighted in their respective levels of development and occupation" [REP1-030, Appx 7 para 1.7].

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- 4.7.45. Like the NG proposal, RC considers its scheme would complement the existing network of SRFIs, advancing it further south and being well placed to service London and the South East, being at the southern tip of the 'Golden Triangle'. It also recognises that operational collaboration and linkage between closely-related SRFIs, such as Hams Hall and Birch Coppice, already takes place. These are closer together than would be the case between DIRFT and NG, are run by competing companies and use the same main line routes and capacity [REP1-030, para 4.56]. We consider a similar potential synergistic relationship between DIRFT and the Proposed Development might occur. On this basis, in our view, the relative proximity of the existing DIRFT facility is not so significant an issue as to undermine the Applicant's justification of need.
- 4.7.46. To a degree it seems to the ExA at first sight to be counterintuitive that goods would be rail-freighted to Northampton Gateway to then be road-hauled back to London given the location of ports at Felixstowe, London Gateway and Southampton and the consented SRFI at Radlett and at Tilbury 2. Nevertheless, the NPSNN notes at paragraph 2.57 that existing facilities in London and the South-East are on a small scale and / or are poorly located and that there is a particular challenge in expanding interchanges to serve this area. The serving of a large part of the London market might appear optimistic. Nevertheless, even setting this aside, based on the market analysis undertaken, indicating the potential to extend coverage into the south Midlands, we consider that there is a satisfactory need justification. It would serve a combined substantial urban population based on Northampton and Milton Keynes together with the potential growth area of the Oxford – Cambridge corridor and would align with NPSNN paragraph 2.56.
- 4.7.47. The fact that two independent applicants are seeking to establish SRFIs, in what is essentially the same location, underpins the argument that there is a market to be served in this location. As footnote 61 of NPSNN states, investment decisions on strategic rail freight interchanges will be made in the context of a commercial framework. Two schemes being promoted on adjacent sites on a commercial basis reflects the confidence of each that their own schemes would be successful with or without the other operating alongside.
- 4.7.48. NPSNN paragraph 4.8 notes that in the case of SRFIs a judgement of viability will be made within the market framework, and taking into account Government interventions such as, for instance, investment in the strategic rail network. Given the nature of the Proposed Development, with the considerable investment that would be entailed, we consider it reasonable to assume that such a judgement has been made by the Applicant.
- 4.7.49. The Proposed Development meets the criteria for the function, transport links, locational requirements, scale and design of an SRFI as set out in NPSNN paragraphs 4.83 – 4.89. The question of potential rail use and network capacity is considered in Chapter 5 below. However, the arguments made that the scheme could result in barely more than a road-based logistics warehouse site have been carefully noted and considered.

- 4.7.50. Nonetheless, in our view the Proposed Development fits the criteria of an SRFI. As already noted above, the provision of rail linkage, secured through the DCO from the outset of its operation (with continued provision throughout its life as now secured by Req 3(4) of the recommended dDCO) provides comfort that this is an overly pessimistic view and without a firm basis. We consider this requirement to be necessary. In this regard we have been very aware of the decision taken in respect of the East Midlands Gateway SRFI when the ExA there was concerned as to the timing of the provision of the rail connection. The comparison with the circumstances of the East Midlands scheme is detailed in Chapter 11 in relation to the discussion of Req 3.
- 4.7.51. In the present case, we are of the view that the mechanism proposed in Req 3 of the recommended dDCO would guarantee the provision of the rail terminal prior to the occupation of any warehousing. This would ensure commitment to significant investment in rail and terminal infrastructure which would provide the basis for the commencement of, and growth in, rail freight operations on the site. The SRFI would be developed from the outset in a form that could accommodate both rail and non-rail activities, functioning as a location for freight access to rail for businesses which may wish to use rail now or in the future.
- 4.7.52. The ExA is not persuaded by objectors' arguments that it is a correct approach when assessing the general justification for the Proposed Development to compare the scheme with putative proposals such as the possible Hinckley NRFI. At the time of writing, an application for that proposal had not been submitted and therefore could not be meaningfully compared. Further, given the geographical separation between it and the Hinckley proposal, the Proposed Development would serve a different market area.
- 4.7.53. Whilst the NPSNN confirms the need for an expanded network of large SRFIs across the regions, it does not set out any policy restriction or geographical restraint on the number of SRFIs across the country or across specific regions to meet demand. It is for the market to determine the viability of particular proposals against a background that there will be limited suitable locations for SRFIs.
- 4.7.54. It can be argued that there is something of a 'chicken and egg' conundrum in terms of the provision of SRFIs; does the rise in rail freight occur because SRFIs are provided, or does the demand for SRFIs occur because of the rise in rail freight? The provision of suitable rail-served floorspace would be expected to stimulate increased demand for rail freight by providing more and improved access to the rail network and enhancing the competitiveness of rail as a freight transport mode.
- 4.7.55. The NPSNN would appear to recognise this. Paragraph 2.50 notes that SRFIs are needed to meet both existing demand and to provide the necessary infrastructure for new demand to be met, with the potential to attract business generally new to rail. Forecast rail freight growth is likely to drive demand for buildings at SRFIs and for the use of terminals based in surrounding areas. Rail-connected sites are necessary to allow forecast

growth to be achieved. That the Proposed Development fulfils the linkage and location requirements of the NPSNN is a further indication that it would meet a need for this form of facility within a national network context.

- 4.7.56. No new SRFIs are anticipated by the WNJCS during the plan period up to 2029. However, there is a recognition of the potential for further expansion of SRFI capacity as noted in paragraph 5.72 of the WNJCS;

"the local authorities in West Northamptonshire will continue to work with Network Rail and the freight industry to consider and support further sustainable opportunities for rail freight interchanges in the longer term once the opportunities for additional access onto the rail network to support viable rail freight interchanges are confirmed".

- 4.7.57. The fact that the WNJCS does not specifically provide for an addition of nationally significant infrastructure does not in our view mean that the current proposal runs counter to it. NSIPs have particular locational characteristics and the tenor of NPSNN is clear that the delivery of a national network of SRFIs will be driven and led by the market. A local development plan cannot be expected to anticipate when or where such proposals are likely to come forward.

- 4.7.58. Within the ES the Applicant has considered only two alternative locations for the Proposed Development – the neighbouring RC site and a site close to Junction 13 of the M1. The Applicant's explanation of the rationale for its stance is based on its Market Analysis Report. It is possible to level criticism for not having as comprehensive a format as, for example, the application of Rail Central. Nonetheless, the process of looking at alternatives has been undertaken and does not undermine the Applicant's approach or assessment in respect of the justification behind its scheme. The question of compliance with the EIA Regulations is considered in section 4.8 below.

Conclusion

- 4.7.59. Overall, taking into account the above factors and policy within NPSNN, the ExA is satisfied that the Applicant's justification for the Proposed Development in terms of need has been made out.

4.8. ENVIRONMENTAL IMPACT ASSESSMENT

Introduction

- 4.8.1. As is recorded in Chapter 1 of this Report and for reasons set out there, the application is EIA development. This section records the documents comprising the ES and changes to those documents provided during the pre-Examination and Examination stages. It also records the environmental management documents proposed to be used by the Applicant in tandem with DCO provisions and s106 to secure the construction and operation of the Proposed Development and the application of mitigation within the worst case parameters (the Rochdale

Envelope) assessed in the ES. The section then considers the various criticisms that have been made in respect of the adequacy of the environmental assessment.

4.8.2. The ES was prepared in accordance with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. These replaced the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 under which the application was scoped. Reliance could have been placed on the transitional arrangements within the 2017 EIA Regulations so that the application could have continued to be prepared in compliance with the 2009 regulations. Nevertheless, the final submitted ES was prepared in compliance with the 2017 Regulations, the Applicant indicating that the following elements brought about by the 2017 regulations have been covered [APP-077, Chapter 1]:

- the addition of 'climate' (Regulation 5(2)(c));
- material assets, cultural heritage and the landscape (Regulation 5(2)(d));
- assessment of 'major accidents or disasters that are relevant to the development' (Regulation 5(4));
- list of competent experts (Regulation 14(4)); and
- an indication of the main reasons for selecting the chosen option including a comparison of the environmental effects (Schedule 4, paragraph 2).

4.8.3. This Section concludes on the question of whether the submitted ES and EIA process provide an adequate basis for decision-making by the SoS.

The Submitted ES

4.8.4. An ES was provided with the application documents. The documents comprising the ES are:

4.8.5. The main text;

- Chapter 1 – Introduction [APP-077]
- Chapter 2 – Description of Development [APP-078]
- Chapter 3 – Socio-economic [APP-082]
- Chapter 4 – Landscape and visual effects [APP-083]
- Chapter 5 – Ecology and nature conservation [APP-088]
- Chapter 6 – Geology, soil and groundwater [APP-092]
- Chapter 7 – Water resources and drainage [APP-093]
- Chapter 8 – Noise and vibration [APP-094]
- Chapter 9 – Air quality [APP-095]
- Chapter 10 – Cultural heritage [APP-113]
- Chapter 11 – Lighting [APP-115]
- Chapter 12 – Transport [APP-116]
- Chapter 13 – Agricultural land [APP-117]
- Chapter 14 – Waste [APP-122]
- Chapter 15 – Cumulative impacts [APP-123]
- Non-technical summary [APP-303]

- 4.8.6. A considerable number of supporting appendices and figures accompanied some (but not all) of the above chapters and have been accorded separate Examination Library references. These have been referred to with their relevant references within the various sections of this and Chapters 5 to 7 below where relevant.
- 4.8.7. The Applicant produced a Climate Change Summary [REP6-015] in response to criticisms made as to the adequacy of its consideration of this matter. This did not form a part of the ES or an addendum to it, the issue of climate change consideration being dealt with below.
- 4.8.8. An updated Cumulative Impact Assessment (UCIA) with RC was provided by the Applicant [AS-040]. It was anticipated that further transportation assessment would be undertaken by RC in relation to its application. However, no additional material was made available to the Applicant and so its UCIA was based on RC's scheme as accepted for examination²⁴.
- 4.8.9. An addendum to the ES Cultural Heritage chapter provided a summary of a post-submission programme of archaeological trail trenching along the line of the proposed Roade Bypass [REP4-013]. This provided an assessment of the significance of archaeological remains encountered and a conclusion as to the implications for any likely effects of the Proposed Development on buried archaeological remains.

Environmental Management Documents

- 4.8.10. The ES is supported by a Construction Environmental Management Plan (CEMP). This sets out the overarching systems and controls that would be adopted during construction. These are to minimise any adverse environmental impacts in accordance with the conclusions of the ES and construction good practice. The CEMP was amended during the course of the Examination, the final version being V.4 [REP6-003].
- 4.8.11. The CEMP provides a framework with which all phase- and construction component-specific Construction Environmental Management Plans (P-CEMPs) required for each component of development must accord.
- 4.8.12. The CEMP is a certified document in the dDCO and is defined in Article (Art) 2(1). Req 12 of the recommended dDCO provides that no part of the authorised development is to commence (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) until P-CEMPs for specific parts of the Proposed Development, drafted in accordance with the CEMP, have been submitted to and approved by the relevant planning or highway authority.
- 4.8.13. A Landscape and Ecological Management Plan (LEMP) accompanies the ES [REP3-012 (clean), REP3-013 (tracked)]. This sets out the general principles for management during the establishment of the Proposed

²⁴ The need for a detailed strategic review of RC's highway data is the reason that RC asked for a deferral of the start of the examination into its application [REP6-018]

Development, and during its operation, of existing conserved landscape, planting and habitats and new landscape, planting and habitats. The ecological and landscape functions that this seeks to secure are to ameliorate (such as screening views from sensitive receptors), mitigate / compensate (such as providing alternative habitat for species displaced by the development) and to provide enhancement (such as providing greater habitat connectivity and securing management of sensitive existing or proposed habitat). Management measures required to minimise effects prior to and during construction would be outlined in each P-CEMP.

- 4.8.14. The LEMP is a certified document in the dDCO and is defined in Req 1. Req 11 secures the development in accordance with the LEMP.

Adequacy of the Environmental Impact Assessment Process and the Environmental Statement

- 4.8.15. There were submissions raising concerns about the adequacy of the EIA process and the ES, which are addressed below. There were some individual submissions which raised particular subject matter-related issues bearing on individual planning issues. These are addressed in Chapters 5 to 7 below as required.

Rail Central's criticisms

- 4.8.16. RC made a number of general criticisms of the Applicant's approach to, and content of, the ES. These are set out on response to ExQ 1.0.4, a question that was primarily addressed to the Applicant. This question noted the Applicant's listing of the key elements required in the ES Non-technical Summary and asked for comment on the wider requirements of Regulation 14(2)(f) and Schedule 4 of the EIA Regulations 2017, and the identification of how these are addressed. The general criticism [REP1-033 and further elaborated upon in REP4-020] includes:
- omission from the Non-technical Summary of several of the requirements of Schedule 4 of the EIA Regulations 2017, including:
 - a description of the reasonable alternatives studied;
 - a consideration of the evolution of the baseline in the absence of the development;
 - a consideration of the factors specified in regulation 5(2) likely to be significantly affected by the development;
 - a description of the likely significant effect of the development on the environment, especially human health and climate;
 - a description of measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant effects on the environment and, where appropriate, of any appropriate monitoring arrangements;
 - a description of the significant adverse effects on the environment deriving from the vulnerability of the development to risks of major accidents and / or disasters;
 - a general lack of information on the approach or assessment methodology adopted across the ES, including a 'reasonable worst

- case' in accordance with the 'Rochdale Envelope' and inconsistent methodology throughout the ES; and
- lack of clarity of the cumulative assessment, particularly in terms of transparency and application of a consistent assessment methodology and evaluation of the sensitivity of receptors, with no methodology as to how the four projects considered in the cumulative assessment were identified.
 - the methodology employed in the ES is not adequately explained and justified, nor is it then applied consistently. This makes conclusions in the ES on significance unreliable. As an example, regarding cumulative impact assessment (CIA) there is no clarity on the approach to the identification and assessment of other development in the context of CIA and without which there is no transparency as to how the CIA was undertaken;
 - concern as to the adequacy of the description of the development. If the description does not properly reflect the project there is a failure against Schedule 4 paragraph 1 and there are consequent necessary failures in the environmental assessment as, in simple terms, the project assessed is not the project for which consent is sought. In this regard some key information lies outside Chapter 2 (Description of Development), such as timing and the parameters of mounding. There is neither a clear nor consistent approach to primary and secondary mitigation²⁵ and without a clear understanding of the parameters of the proposed bunding there cannot be an adequate assessment of landscape and visual effects;
 - in respect of noise, the description of development makes no attempt to identify the type of plant that may be used during operation and excludes other potential noise sources. This represents an inappropriate deferment of assessment of potentially significant effects. This is legally impermissible (see *ex parte Hardy*)²⁶. The process should be a front-loaded one and there should be adequate information to understand the likely significant effects at the 'in principle' stage; and
 - the decision as to the adequacy of environmental information is for the decision-maker. However, in coming to that decision the decision-maker will need to take account of the extent to which the information was available and properly accessible to the public, and its sufficiency to enable the public to properly participate in the consenting process. A failure to properly describe the development critically undermines public participation. If RC with its professional advisers has difficulty understanding what is being assessed in respect of the Proposed Development this would suggest the public would be likely to be hampered in effective participation in the process.

²⁵ Primary mitigation (embedded mitigation) is designed into and forms part of the scheme itself. Secondary mitigation is not an integral part of the development itself and would need to be secured through the DCO

²⁶ (*R v Cornwall County Council*, *ex parte Hardy* [2001] Env LR 25)

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The Applicant's response to Rail Central's criticisms

- 4.8.17. In response, the Applicant rebuts RC's suggestion within its criticism that there is a single, set and imposed methodology which is required to be adopted by all authors of Environmental Statements [REP2-011]. The relevant EIA regulations identify when an ES should be prepared and what it should assess where relevant to the scheme concerned. Neither the primary legislation nor regulations prescribe how an assessment of likely significant effects in an ES should be undertaken. Approaches vary so that ESs are bespoke to the scheme in question and are proportionate.
- 4.8.18. The Applicant's approach to the ES is different to that of RC, which has used a more rigid formulaic approach, whereas the Northampton Gateway scheme is more dictated by the specific scheme and specific disciplines. The methodology employed is not standardised throughout the chapters but varies according to the discipline. The methodology used follows the approach adopted in preparing the ES for the Applicant's East Midlands Gateway proposal and which was found sound by the SoS [REP3-008].
- 4.8.19. The ES provides a full description of the Proposed Development in Chapter 2, with extensive reference to the Parameters Plan, rather than each chapter repeating the description in full. It responds appropriately to Schedule 4 of the EIA Regulations 2017, albeit not in a manner which is consistent with the approach that RC has adopted [REP4-011, section 2].
- 4.8.20. The Applicant accepts the general principle that environmental effects need to be assessed early in the development control process. Through the Application itself, and through additional submissions provided to the Examination, sufficient parameters have been fixed so as to enable the determination of the extent of likely significant environmental effects.
- 4.8.21. It is clear from ES Chapter 2, and from the relevant parts of the various topic-specific chapters, what primary embedded mitigation is included and what has been assessed in identifying likely residual effects [REP3-008]. The EIA Regulations 2017 do not refer to primary or secondary mitigation nor prescribe how, or where, mitigation should be dealt with in an ES. The different chapters of the ES deal with mitigation in a way appropriate to the assessment being carried out. It is obvious that it is not standardised throughout the ES, but nor is it required to be.
- 4.8.22. With regards the assessment of operational noise, the Applicant's response was made in respect of RC's further criticisms and is addressed below in Chapter 7.3 of this Report. Reference is drawn to the decision in *Milne v Rochdale*²⁷, which stated that in looking at the worst case scenario it should be assumed that controlling regimes will be properly observed. It is entirely appropriate that the detailed impact from plant and equipment is undertaken at the detailed design stage at a point when specific occupiers and their specific plant / equipment requirements would be known [REP7-006].

²⁷ R v Rochdale Metropolitan Council (ex parte Milne) [2001] Env LR 22
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- 4.8.23. Having regards to cumulative assessment, each chapter of the ES provides a topic-specific assessment of potential cumulative effects, with agreed committed developments and with the RC project. Rail Central is not regarded as a commitment but was identified as a relevant scheme for consideration given that it might receive consent in due course. It is therefore considered as a separate category to other, committed, schemes. The Applicant states [REP5-019]:

"To the extent it is said that the Applicant's assessment of the cumulative impacts of Northampton Gateway and Rail Central is in any way provisional, this is entirely due to the failure of Rail Central to supply information regarding its proposal (such as inadequate traffic modelling and assessment of highways impact) to enable a final assessment."

- 4.8.24. There is an awareness of the need to ensure that the environmental information before the ExA is adequate, not only in terms of its content but also in terms of its form, to enable the public to participate fully in the Examination. Environmental information has been provided in the form of the ES as originally submitted together with some limited additional submissions to the Examination which is both substantive and comprehensive. The suggestion that such information has not been available and properly accessible to the public is rejected, as is the contention that there has been a failure to properly describe the development which could undermine public participation [REP5-019].

The ExA's consideration of Rail Central's general criticisms

- 4.8.25. Having considered the general criticisms levelled by RC in respect of the content of the ES and the EIA process followed by the Applicant, and the responses provided, the ExA is satisfied that there has been an adequate assessment of likely significant environmental effects. We are satisfied that the ES adequately describes the development which is proposed, and that the environmental information is sufficiently transparent to allow an understanding of the likely significant effects and how these have been assessed.
- 4.8.26. The approach adopted by the Applicant may not be the same as that chosen or favoured by RC but it is sufficiently clear and logical as to fulfil the requirements of the EIA Regulations 2017. From a study of the environmental information we have been able to sufficiently discern the nature of the mitigation proposed, whether this be primary or secondary in nature. There has been no criticism of the approach adopted by the Applicant in terms of the ES from any statutory consultees or local authorities.

Rail Central's criticisms of climate change assessment

- 4.8.27. Rail Central has also submitted criticism that the Applicant's climate change assessment is not adequate to allow a properly informed decision, and that the ES is deficient in this regard [REP1-029, REP1-032, REP1-033, REP3-016]. Specific criticism of climate change mitigation and adaptation included:

- ES Chapter 9 (Air Quality), does not consider climate change in any form;
- ES Chapter 12 (Transportation), includes only a single reference to climate change as part of the review of the WNJCS;
- neither the cumulative impacts section of the Northampton Gateway ES nor the technical chapters consider the potential impact upon Northampton Gateway from the future climatic factors as presented within the UK CP09 data, as required by paragraph 4.41 of NPSNN;
- a reference to the use of Building Research Establishment Environmental Assessment Method ("BREEAM") Very Good as a measure to mitigate and adapt to climate change is insufficient to respond to the requirements of NPSNN, given that compliance with this requirement can often be secured with few additional requirements above the statutory minimum; and
- there is no assessment of the carbon emissions from the Proposed Development and how these emissions contribute to the Government's national carbon budgets as requested by paragraphs 5.16 -5.19 of the NPSNN.

4.8.28. The Applicant provided a Climate Change Summary [REP6-015]. This sets out the legislative and policy context for the consideration of mitigation and adaptation to climate change and how the Application demonstrates these have been considered within the ES. RC provided a review of this document [REP7-012] within which it maintained its view that neither the Summary nor the ES meet the procedural or legal requirements of the EIA Regulations 2017 (and the NPSNN) for the reasons previously given. In light of this continuing criticism, the ExA issued a Rule 17 question addressed to the Applicant inviting a response to RC's assertions [PD-012]. The Applicant duly responded [REP8-003]. The final submissions on this matter were provided by RC at D9 [REP9-002].

4.8.29. RC's submissions on the Climate Change Summary noted that in addition to the criticisms already made:

- the Applicant's Sustainability Statement [APP-127] does not form part of the ES and therefore must be disregarded for the purposes of demonstrating compliance with the EIA Regulations;
- there is disagreement with the Applicant's assertions that Chapters 7 (Water Resources and Drainage), 9 (Air Quality) and 12 (Transportation) provide assessment of climate change. Chapter 7 does not refer to carbon or greenhouse gas, with no formal assessment of effects;
- the conclusion that, as an SRFI, the proposal would deliver a positive contribution to climate change is not supported by any evidence. As the Climate Change Summary is not published as an addendum to the ES this conclusion must be dismissed;
- given that the term 'greenhouse' is not mentioned in Chapter 12, the conclusion that greenhouse gas savings would result from modal shift from road to train must be dismissed;
- there is an absence of any formal assessment within the ES that the cumulative impacts of the Proposed Development with RC could

- reasonably be expected to deliver climate change-related benefits to those seen by Northampton Gateway alone; and
- having regards to climate change adaptation, the application does not demonstrate an assessment (with significance criteria) of the future impacts of climate change and how mitigation might be used to reduce any significant effects with respect to climate change, such as rising temperatures and overheating of buildings.

The Applicant's response

- 4.8.30. The Applicant's response to RC's submissions on the assessment of climate is in REP8-003. It noted that the Climate Change Summary is not relied upon for compliance with the EIA Regulations but is a summary and a vehicle for signposting where the issue of climate is addressed in the ES. The Applicant reiterated that there is no standard methodology prescribed by the Regulations. Its approach to the issue has differed from that favoured by RC but is consistent with the Regulations.
- 4.8.31. The Applicant's Sustainability Statement [APP-127] is clearly part of the ES, being contained in Appendix 2.2 to the ES and being cross-referred to at paragraph 2.3.15 of ES Chapter 2²⁸. This provides a framework for the actions and measures proposed to ensure the site and the buildings of the Proposed Development deliver high levels of environmental sustainability and resource efficiency and can deliver low carbon and energy efficiency design and construction. The proposed approach includes the objective to deliver BREEAM 2018 'very good' ratings (BREEAM Industrial 2008 'excellent' standard) on all warehouse buildings, which would be secured by Req 16 of the dDCO. The measures set out in the Sustainability Statement could provide an overall reduction in CO₂ of around 8.8% compared to notional development performance.
- 4.8.32. Whilst the Air Quality Chapter of the ES [APP-095] is not focussed on CO₂ reduction measures, it does cross-refer to the CO₂ reduction that would result from the shift of freight from road to rail. That CO₂ reduction effect is explained in the context of the extent and benefit of modal shift from road to rail in section 12.7 of Chapter 12 (Transportation) [APP-116] and Appendix 34 [APP-269] of the ES. There could be a potential removal of some 92 million HGV miles per year through the operation of the Proposed Development. The addressing of climate change is self-evident when set against NPSNN paragraph 2.53 which states, "*(T)he transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change*". The fact that this was addressed in the Transportation Chapter rather than that relating to air quality is not a failure to comply with the EIA Regulations.
- 4.8.33. The ES makes specific reference to PA2008 and to the relevant EIA Regulations and to the need to consider climate change issues. Section 1.5 of Chapter 1 and Section 15.2 of Chapter 15 of the ES provide two

²⁸ Whilst the reference in that paragraph is to a Sustainability Strategy, the Applicant notes that it is clearly the same document as it is identified as the document in Appendix 2.2

distinct specific sections relating to climate change. These bring together in summary the key points regarding the relevance of and consideration of climate change. They consider the likely impacts of climate change on the Proposed Development and the impact of the Proposed Development on the climate. The Applicant states that these *"draw upon, and cross-refer to, the assessments undertaken elsewhere in the ES as a direct response to the requirements of the NPS, and in light of the requirement on the Secretary of State to give due regard to climate change issues when determining NSIP applications"* [REP6-015, para 2.5].

- 4.8.34. There has been an assessment of modal shift from road to rail within the ES in light of NPSNN objectives. It has not been explicitly stated that this would reduce greenhouse gas emissions. However, the EIA Regulations do not require that greenhouse gas emissions be dealt with at all or as a discrete topic, paragraphs 4 and 5 of Schedule 4 of the Regulations referring to greenhouse gases only as an example of potential effects on climate change. Regulation 14 and paragraphs 4 and 5 of Schedule 4 require an applicant to use its judgement to decide how to address the issues identified.
- 4.8.35. Given the increasing uncertainty regarding the RC proposals, both in terms of their likely content and their timing, the Applicant would agree that no reliance can now be placed upon any assessment of the effects of the RC proposals, and therefore cumulative effects involving RC. As stated by RC [REP6-018], the matter of cumulative impacts with RC is for the Rail Central Examination, if, or when, it proceeds.

The ExA's consideration of Rail Central's criticisms on climate

- 4.8.36. Within its Climate Change Summary [REP6-015] the Applicant refers to its ES Scoping Report of October 2016. This set out how climate change would be considered within the application and although the Report applied to the 2009 Regulations the Applicant did undertake to consider climate change adaptation;

"Climate change adaptation – this will run throughout the ES, but is of particular relevance to the assessment of flood-risk and drainage issues, and transport, as well as design with regard to energy efficiency;"

- 4.8.37. The Applicant states that the ES chapters have taken account of the guidance on climate change adaptation where relevant. Referencing and assessment to climate change mitigation and adaptation has not been made as explicitly in some of the relevant topic chapters as might have made more ready understanding of likely significant impacts. However, as signposted within the Climate Change Summary, these matters have been addressed with the ES. We are satisfied that no significant environmental effects have been missed and the ES meets the requirements of the EIA Regulations 2017.

Northampton Rail Users Group's criticisms

- 4.8.38. Northampton Rail Users Group (NRUG) suggested that there has been a failure within the ES to fully assess the likely significant effects on 'people'

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and 'material assets' [REP1-092, orally at the PM [EV-002 and AS-073]²⁹. This is in the context of its submission that within the ES the effect on rail passengers and passenger traffic has not been covered. Reference is made to paragraph 4(2) of the EIA Regulations 2017;

"The EIA must identify, describe and assess, in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the Proposed Development on the following factors:

(a) Population and human health...

(d) Material assets...."

- 4.8.39. NRUG stated that rail passengers are "population" and the railway network, including passenger networks, are "material assets".
- 4.8.40. The Applicant noted that the ES is explicit in considering the likely effects on people in all its relevant chapters [REP1-020, response to ExQ 1.11.15]. The Rail Reports which accompanied the application [APP-377] explicitly consider the impact on rail services and passengers and are cross-referred to in the assessment in ES Chapter 12 (Transportation) [APP-116, footnote 1]. However, NRUG counters this by noting that the Rail Reports do not discuss the criteria set to establish significant effects and do not mention potential significant effects; having failed to establish and report on these there has been a failure to comply with the Regulations [AS-076].

The ExA's consideration of NRUG's view

- 4.8.41. In our view the EIA Regulations 2017 at paragraph 4(2) provide a degree of latitude in terms of what should be assessed, given its reference to *"in light of each individual case"*. *"Population"*, in the sense of impact on individuals and communities, has been assessed within the various chapters of the ES though not in the specific sense of users of passenger train services.
- 4.8.42. The Rail Reports do assess likely impact on passenger rail services and although they do not comprise part of the ES they are clearly sign-posted within it. It would have been open to the Applicant to address specifically within the ES impact on the rail-travelling population and the material asset that comprises the rail network. However, the fact that this hasn't been done so explicitly does not in the ExA's view constitute a failure to comply with paragraph 4(2) of the Regulations.

Criticism of Assessment of Alternatives

- 4.8.43. As already referred to in section 4.7 above, there has been criticism that in terms of assessment of alternatives the Proposed Development would not be compliant with the EIA Regulations. It has been suggested that assessment of alternatives regarding locations for the Proposed

²⁹ This criticism is also echoed in the WR of Andrew Bodman [REP1-063]
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Development is lacking either in comprehensiveness [REP1-063, REP1-065] or that it has not taken place at all [REP3-020, REP3-021].

- 4.8.44. The ES considers alternatives at section 2.4, noting at paragraph 2.4.12 that the study by an applicant of alternative locations is more generally required in respect of development where there would be a need to examine alternatives to ensure the optimal location when that location is not dictated by the nature of the development [APP-078]. Two alternative site locations are included in the ES – the neighbouring RC site and a site at Junction 13 of the M1. These sites were considered based on catchment areas defined within the Market Analysis Report [APP-378] which the Proposed Development would aim to serve³⁰.

The ExA's Consideration of Alternative Assessment Criticisms

- 4.8.45. Paragraph 14(2) of the EIA Regulations 2017 states that an ES should include;

"(d) a description of the reasonable alternatives studied by the applicant, which are relevant to the Proposed Development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment".

- 4.8.46. Regulation 14(2)(d) does not indicate what the "*reasonable alternatives studied*" should be. Within Section 2.4 of the ES, justification for the choice of alternatives studied is provided. Whilst the choice is limited, the Applicant's reasons for this are provided. We consider that the Application is compliant with the relevant regulations in this respect.

The ExA's Overall Conclusions on the Adequacy of the Environmental Impact Assessment Process and the Environmental Statement

- 4.8.47. Having regards to the above, the ExA concludes as follows:

- the Proposed Development is EIA development;
- the ES, together with the other information submitted by the Applicant during the Examination, has provided an adequate assessment of the environmental effect of the Proposed Development, sufficient to assess the maximum adverse effect associated with the Proposed Development and, as referred to within the dDCO below, to secure its delivery within the envelope of that assessment; and
- full account has been taken of all environmental information in the assessment of the application and in the recommendation to the SoS.

³⁰ In addition to alternative locations, Section 2.4 of the ES also addresses alternative master planning and references alternative locations for the proposed Roade bypass
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4.9. HABITATS REGULATIONS ASSESSMENT

- 4.9.1. This Section sets out the documents submitted to support the HRA process for this application.

Habitats Regulations Assessment Documentation

- 4.9.2. The application was accompanied by an HRA Report [APP-372]. This was updated as a result of advice provided by PINS under s51 of PA2008 within its letter accepting the application [PD-003]. The advice suggested that the report should: explicitly refer to in-combination effects; should consider the European Court of Justice ruling issued on 12 April 2018 (*Case reference C-323/17 – People Over Wind, Peter Sweetman v Coillte Teoranta*); and should provide screening and (if required) integrity matrices.
- 4.9.3. An updated Report on European Sites was submitted, which included three Appendices³¹ [AS-012]. The report identifies an area of search to find European sites and the extent of any Impact Risk Zones that may extend to the Proposed Development. Only one site – the Upper Nene Valley Gravel Pits Special Protection Area (SPA) / Ramsar site - was identified within the area of search. The report concludes that there are no likely significant effects on this site or its qualifying features from the Proposed Development.

Conclusion on the Habitats Regulations Assessment

- 4.9.4. As is normal for NSIP Recommendation Reports, even though there is little of substance relevant to the SoS's consideration of HRA, a separate Chapter 8 has been retained in which those issues are set out and conclusions reached. There are no matters germane to HRA that require to be considered as part of the reasoning in respect of planning issues in this Chapter or in Chapters 5 to 7 below.

³¹Appendices A (Upper Nene Gravel Pits SPA Data Sheet), B (Letter from Natural England, dated 30 July 2018) and C (Screening Matrices (HRA Stage1: Screening) Northampton Gateway SRFI TR050006
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5. FINDINGS AND CONCLUSIONS IN RELATION TO TRANSPORT ISSUES

5.1. INTRODUCTION

- 5.1.1. This section addresses impacts of the Proposed Development, both road and rail. Highway transport aspects are considered first followed by those relating to rail. Public rights of way issues in relation to footpaths crossing the Main Site are addressed in the landscape and visual impacts and socio-economic sections of Chapter 7.

5.2. POLICY CONSIDERATIONS

- 5.2.1. The Applicant lists the policies it considers relevant in section 12.3 of the Transportation Chapter [APP-116]. We broadly agree with its choices. The NPSNN is the starting point.

- 5.2.2. The summary of need for national networks is set out at page 9 of the NPSNN:

"The Government will deliver national networks that meet the country's long-term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. This means:

- *Networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs*
- *Networks which support and improve journey quality, reliability and safety*
- *Networks which support the delivery of environmental goals and the move to a low carbon economy*
- *Networks which join up our communities and link effectively to each other."*

- 5.2.3. Paragraph 2.19 draws attention to current and forecast pressures on the road network, and paragraph 2.43 refers to the importance of SRFIs in *"...enabl[ing]freight to be transferred between transport modes, thus allowing rail to be used to best effect to undertake the long-haul primary trunk journey, with other modes (usually road) providing the secondary (final delivery) leg of the journey"*.

- 5.2.4. The Applicant draws attention to paragraph 2.44 which says:

"The aim of a SRFI is to optimise the use of rail in the freight journey by maximising rail trunk haul and minimising some elements of the secondary distribution leg by road, through co-location of other distribution and freight activities. SRFIs are a key element in reducing the cost to users of moving freight by rail and are important in facilitating the transfer of freight from road to rail thereby reducing trip mileage of freight movements on both the national and local road networks."

- 5.2.5. We would comment that this is part of the section from paragraph 2.42 to 2.58 which set out the Government's view of the importance of SRFIs, the drivers of and the policies for them.
- 5.2.6. The Applicant specifically refers to paragraph 2.56 which states that there is a compelling need for SRFIs.
- 5.2.7. Paragraphs 5.201-218 contain policies on impact on transport networks. The Applicant draws attention to:
- 5.207 - Projects with significant transport impacts should include a Transport Assessment, using the WebTAG methodology stipulated in DfT guidance. If a development is subject to EIA and is likely to have significant environmental impacts arising from impacts on transport networks, the applicant's Environmental Statement should describe those impacts;
 - 5.208 (need for travel plans to mitigate impacts and measures to improve public transport access, and sustainable modes of transport where relevant; to reduce need for parking associated with the proposal and to mitigate transport impacts);
 - 5.209 (that applicants should have regard to DfT Circular 02/2013 The Strategic Road Network and the delivery of sustainable development for schemes impacting on the Strategic Road Network (SRN));
 - 5.213 – SRFI projects are to include reasonable steps to mitigate impacts on surrounding transport infrastructure including connecting transport networks;
 - 5.215 – mitigation to be proportionate, reasonable and focussed on promoting sustainable developments;
 - 5.216 – accessibility impacts should be mitigated so far as reasonably possible with a strong emphasis that accessibility for non-motorised users should be mitigated; and
 - 5.218 – for SRFIs travel planning should be undertaken for major developments generating significant amounts of transport movement. (To which we would add that if travel plans would be insufficient to reduce traffic demand to an acceptable level traffic management measures should be considered with relevant planning and highway authorities and implemented if appropriate.)
- 5.2.8. We would add:
- 5.211 – the ExA and the Secretary of State are to give due consideration to impacts on local transport networks and policies in local plans eg policies on demand management at local level –
 - 5.214 – if an applicant is willing to commit to transport planning obligations for impacts identified via a WebTAG-compliant transport assessment calculated in accordance with DfT guidance development consent should not be withheld and in such a case appropriate limited weight should be given to residual effects.
- 5.2.9. In relation to rail we would draw attention to NPSNN paragraphs 3.11, 3.12 and 4.67 – 4.73 in relation to safety on railways.

- 5.2.10. Paragraph 4.74 addresses national security of strategic infrastructure but no national security implications have been identified to us.
- 5.2.11. Annex C of the NPSNN notes interaction with rail passenger traffic.
- 5.2.12. The NPPF is a statement of national planning policy. The NPSNN states at paragraph 1.19 *"However, the NPPF makes clear that it is not intended to contain specific policies for NSIPs where quite particular considerations can apply. The National Networks NPS will assume that function and provide transport policy which will guide individual development brought under it"*.
- 5.2.13. With that in mind we turn to the NPPF. After the submission of the Application, and again during the course of the Examination, the NPPF was revised. The latter revisions (of January 2019) are not material. The former revisions, of July 2018 are slight so far as material to this application but the paragraphs where they are to be found are different. We use the new paragraph numbers in this section, rather than the numbers stated in the Transportation Chapter.
- 5.2.14. The Applicant referred us to paragraphs 102, 108 and 111. Paragraph 102 requires transport issues to be considered early by applicants so as (a) to consider impacts, (b) realise opportunities from transport infrastructure and changing technology and usage, (c) to promote walking and cycling, and (d) to address EIA, to consider patterns of movement.
- 5.2.15. Paragraph 108 requires the consideration of applications for planning permission to ensure that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 5.2.16. We would add paragraph 109: *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*.
- 5.2.17. The Applicant refers to paragraph 110(a):
"Within this context, applications for development should: (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use";
- 5.2.18. We would add paragraph 110(e);

"[Within this context, applications for development should:] (e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations."

- 5.2.19. Paragraph 111 states that developments generating significant movement are to have a travel plan and a transport assessment.
- 5.2.20. We would also refer to paragraph 103 which advises that significant development should be focussed on locations which are or can be made sustainable to help reduce congestion and emissions.
- 5.2.21. The next policy document to which the Applicant refers us in the Transportation Chapter is the National Planning Practice Guidance (NPPG). It draws attention to guidance on methodology, and that in determining whether a transport assessment and travel plan are needed regard should be had to transport and travel plan policies in local plans and to a number of other aspects of good practice. These policies and guidance are subordinate to the NPSNN but may be important and relevant. The Applicant has prepared and submitted a transport assessment and travel plan.
- 5.2.22. The Applicant refers to paragraphs 9, 33 and 34 of DfT Circular 02/2013. Paragraph 9 states:
- "Development proposals are likely to be acceptable if they can be accommodated within the existing capacity of a section (link or junction) of the strategic road network, or they do not increase demand for use of a section that is already operating at over-capacity levels, taking account of any travel plan, traffic management and/or capacity enhancement measures that may be agreed. However, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*
- 5.2.23. Paragraph 33 records that it is only after travel plan and demand management measures have been fully explored and applied that capacity enhancement will be considered. Paragraph 34 states that where insufficient capacity exists impact will be mitigated to ensure that the SRN is able to accommodate existing and development-generated traffic.
- 5.2.24. We would add that paragraphs 37-44 contain policy on access to the SRN. There has been no objection sustained by Highways England (HE) to the access to the SRFI and in all the circumstances we do not consider this policy further.
- 5.2.25. Moving to local level policies, the Applicant references policies in the WNJCS. Paragraph 8.16 of the WNJCS notes that regional advice gives priority, when considering applications for strategic distribution to intermodal railfreight terminals. The Applicant also refers to three of the WNJCS's spatial objectives: Objective 1 on climate change; Objective 3 on connections, encouraging the use of sustainable travel and promoting development which maximise the use of alternative travel modes to address social exclusion; and Objective 8 on economic advantage, taking advantage of West Northamptonshire's location, strategic transport network and proximity to London and Birmingham.

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- 5.2.26. We are referred to the Northampton Transportation Plan (NTP) (not part of the development plan), its vision and to three policies in relation to achieving a 20% reduction in single car occupancy journeys (SP2), good transport connections (SP3), and improving highway and rail journey times and reliability (SP19).
- 5.2.27. The Northamptonshire Road Freight Strategy is a daughter document of NTP. It states that:
- "The continuing choice of Northamptonshire as a location for distribution activity is dependent on continuing good transport links. Congestion causes delay and leads to unreliability in journey times, which has far-reaching negative consequences for distribution operation. The performance of the strategic road network is therefore of critical consequence. If, or when, it becomes severely congested it poses a threat that could lead to companies re-locating elsewhere. It can also cause rat-running on to less suitable routes".*
- 5.2.28. Its vision is to *"encourage the sustainable distribution of goods through minimising road based travel and the associated environmental impacts of road haulage, whilst maintaining economic efficiency and helping to improve the quality of life for the residents of Northamptonshire"*. It lists six objectives, a number of constraints and states that *"ability to move freight by rail is crucial to the economy"*.
- 5.2.29. The Applicant draws attention the Northamptonshire Major Roads Strategy, another daughter document, with objectives encouraging highway improvements and discouraging traffic from unsuitable roads.
- 5.2.30. The Northampton Bus Strategy encourages bus networks and their integration into new developments.
- 5.2.31. The A45/M1 Northampton Growth Management Scheme (NGMS) emerged from a study of the A45 and M1 around Northampton, concluding that the NGMS should be implemented. It states at paragraph 2.3 that the *"NGMS has been designed to ensure that vehicular access and egress onto the SRN is managed effectively and that the safety and free flow of traffic on the A45 and M1 is maintained over the plan period"* and lists a number of schemes for improvements to the A45/M1 corridor to accommodate future developments and mitigate the impacts of the potential increase of traffic flows of the SRN in the Northampton area. These are to:
- M1 Junction 15
 - A45 Wootton Interchange
 - A45 Queen Eleanor Interchange
 - A45 Brackmills Interchange
 - A45 Barnes Meadow Interchange
 - A45 Barnes Meadow Interchange
 - A45 Lumbertubs Interchange
 - A45 Great Billing Interchange

- 5.2.32. The Applicant records that except for the M1 Junction 15 works (which are not included in the Northamptonshire Strategic Transport Model (NSTM2) on the advice of HE) all the other NGMS works are included in NSTM2.
- 5.2.33. The Highways England Road Investment Strategy (2015-2020) focuses on the SRN by outlining *"the foundations for a better future – foundations on which future Road Investment Strategies will build, as we strive to achieve our vision of a revolutionised SRN that will underpin progress and prosperity for generations to come"* (page 9). It lists a number of schemes, five of which are in the vicinity of the Proposed Development. The Applicant notes also that there is a scheme of improvements for the A5/A508 Old Stratford roundabout.
- 5.2.34. The Design Manual for Roads and Bridges (DMRB) is referenced and the Applicant confirms it has been complied with. The Applicant also confirms that the design standards to be used for the assessment and design for the DCO submission were agreed with the Transport Working Group³².
- 5.2.35. The final policy listed by the Applicant is the Northamptonshire Parking Standards (September 2016) which is *"to support the provision of sufficient, usable parking within development without compromising highway safety whilst supporting good design and sustainable travel."* The Applicant states that the *"new standards therefore provided minimum car parking requirements. The new standards are the relevant guidance for the Proposed Development and have therefore been applied"*.
- 5.2.36. NCC in its LIR [REP1-036] and WR [REP1-035] refers to Policy RAIL 7 of the Rail Strategy concerning frequency, routes and connections at Northampton station. It also refers, on rail, to *"Future Priorities for the West Coast Main Line: Released capacity from a potential high speed line (January 2012) and the Department for Transport/HS2 Ltd in The Economic Case for HS2: Assumptions Report (October 2013)"* (See paragraphs 3.9 and 3.13 of the LIR and the same point at paragraphs 4.6 and 4.8 of the WR). No other policies are mentioned in the LIR or WR from NCC.
- 5.2.37. SNC lists a number of policy documents in its LIR [REP1-037]. They are:
- the current development plan, comprising the WNJCS and the saved policies in the South Northamptonshire Local Plan 1997;
 - the emerging South Northamptonshire Local Plan Part 2 draft submission Plan, undergoing its public consultation stage in October and November 2018;
 - a number of policies in the WNJCS;
 - a number of saved policies of the Local Plan; and
 - a number of policies in the emerging Local Plan (the WNJCS draft submission Plan noted above).

None of these policies are mentioned in the argument and representation made in the LIR so far as transport is concerned.

³² We explain this group below. It is described at paragraph 12.2.10 of the Transportation Chapter of the ES.
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- 5.2.38. SNC, in its WR, draws attention to the following paragraphs of the NPSNNN: 2.50; 2.57; 2.58. These paragraphs relate to the siting of SRFIs and need for a network, without being prescriptive about location. Again, these policies are not mentioned in the argument on transport.
- 5.2.39. NBC's LIR lists a number of policies from the WNJCS in general, but it does not use them in its LIR submission on transportation. In its WR [REP1-088] it draws attention to NPSNN policies 2.37 (economic growth), 2.40 (the importance of achieving modal shift in favour of rail) and 2.53 (the importance of developing the intermodal rail freight industry for a number of reasons). From the WNJCS it lists a number of policies and sets these out with short summaries, including:
- "Policy C2: New Developments – new development will be expected to achieve the modal shift targets by maximising travel choice from non-car modes.*
- Policy C3: Strategic Connections – the priorities to retain and enhance West Northamptonshire's Strategic connections for economic advantage are to work in partnership with, and support the relevant transport providers in order to secure the introduction of additional rail services to the wider north west for passenger and freight movements along the M6 corridor to relieve congestion on the road network."*
- As with the LIR, however, these policies do not form part of the argument it sets out on transportation and highway impacts.
- 5.2.40. NCC signed three SoCGs relevant to transportation. In the first, Doc 7.5, [AS-006] it agreed that, subject to the satisfactory securing of the highway mitigation strategy and associated mitigation in the travel plan and public transport strategy, there would be no significant adverse residual highway impacts and that the proposals would alleviate existing / future capacity issues at a number of junctions. Hence the County had no objection to the Application in relation to highway matters, and believed that the mitigation works would contribute positively to the enhanced operation of the highway network.
- 5.2.41. This SoCG also contains NCC's approval of a number of technical design and assessment documents prepared for the application and it is agreed (at paragraph 3.10) that *"together they represent a fair and reasonable assessment of the impact of the Development on the highway network and they use the appropriate assessment methodology, trip generation, light and HGV traffic distribution and assignment. They conclude by defining the highway mitigation measures summarised in para 3.4 and 3.5 that are agreed as appropriate and necessary to mitigate the impacts of the Development"*.
- 5.2.42. The other two SoCGs, Docs 7.5A [REP-1-009] and 7.5B [AS-053], respectively approve a small number of documents which were still under consideration by NCC at the time of the first SoCG and approve some minor changes to the general arrangement of the Roade Bypass in the vicinity of Hyde Farm House.

- 5.2.43. Towards the end of the Examination, NCC passed a resolution opposing the two SRFIs – that is the Proposed Development and the RC scheme. Its letter to the ExA [REP6-036] includes the following comment:

"This Council does not seek to question the validity of SRFI's per se, but expresses deep concern regarding the suitability of the sites in question and the potential impact of the proposals on local residents. The local road network is already far too congested to accommodate these schemes and cannot be improved sufficiently to mitigate their impact. Northamptonshire is already home to a successful and expanding SRFI, namely DIRFT near Daventry, calling into question the ability of the proposed sites to fulfil a strategic need. Over 1150 acres of agricultural land would be lost as a result of the two proposals and local villages would be seriously affected by air, noise and light pollution that cannot be adequately mitigated against".

There is some ambiguity in the letter, Council resolution and underlying report of NCC's officers to its Cabinet (which all form part of [REP6-036]) whether the opposition is to the prospect of the two SRFIs cumulatively or to each SRFI individually. We were first informed of the resolution at ISH5 when our impression was that it was an objection to Northampton Gateway. The officers' report records the existence of the SoCGs and recognises the technical discussions and agreements made.

- 5.2.44. NBC signed a SoCG which referred amongst other things to policy [REP1-014]. It records agreement that the location of the Proposed Development accords with NPSNN paragraphs 2.54, 2.56 and 4.84.

- 5.2.45. In addition to the policies noted above, the Applicant's Planning Statement [APP-376] identifies the following policies of relevance to transportation:

- NPSNN paragraphs 2.1; 2.2; 2.6 and 2.9 – general policies on the need and importance of national networks, and 4.85 on, amongst other things, rail gauge;
- National Freight Documents and Forecasts referred to at paragraph 3.26; 3.27; 3.28; 3.32; 3.34 of the Planning Statement;
- the SEMLEP Strategic Economic Plan – see paragraphs 3.39; 3.41 and 3.43 of the Planning Statement;
- WNJCS policy C1 on changing behaviour and achieving modal shift;
- The Freight Network Study on the amount of SRFI space needed – see paragraph 4.19 of the Planning Statement; and
- the National Infrastructure Commission's interim report on the Cambridge - Milton Keynes - Oxford Corridor, paragraph 4.8 on rail freight – see paragraph 4.68 of the Planning Statement.

Some of these policies identified in the Applicant's Planning Statement [APP-376] are higher level and address the need for SRFIs, but they have some relevance in considering transportation issues which include rail because an SRFI is a transport project. In this chapter, in relation to highway transport aspects we shall address only the NPSNN paragraphs listed and Policy C1 of the WNJCS. The others relate more appropriately to rail and to general considerations.

5.3. HIGHWAY TRANSPORT ASPECTS

The Applicant's case

- 5.3.1. The Applicant has addressed these in a suite of documents largely brought together in Chapter 12 of the ES [APP-116] and the transport assessment [APP-231]. The Applicant's case is that the baseline conditions show that Junction 15 of the M1 and high traffic demand means that Junction 15 is often heavily congested and a bottleneck. Without improvement, background traffic would worsen performance and with the addition of development traffic would deteriorate further. Thus, improvement of Junction 15 was identified as a requirement for the project.
- 5.3.2. The A508 bisects the village of Roade where there are existing congestion issues due to the mini-roundabout there and narrow railway bridge and thus increases due to the development would not be acceptable. Therefore, a Roade Bypass is proposed. It was expected that this would also draw traffic which uses rural routes as an alternative to the A508 as it passes through Roade back onto the A508. An iterative design and assessment process followed which identified the need for an improvement scheme at Junction 15A. Existing traffic is indeed drawn back onto the SRN, principal road network and particularly the A508. There is a consequential reduction in traffic on the surrounding local roads and some of the surrounding villages. To ensure that the A508 accommodates the traffic increase a series of improvements are identified along it as part of the proposed A508 route upgrade.
- 5.3.3. In brief, the highway works (which can be seen diagrammatically at drg NWG-BWB-GEN-XX-SK-C-SK28-S1-P10, an appendix to the TA [APP-231]) comprise:
- the new access to the Main Site – a roundabout configured to require all departing HGVs to travel north to Junction 15, and dualling of the A508 between the access and Junction 15. This would be enforced by a combination of layout, a height barrier and monitoring (by automatic number plate recognition, or other suitable technology) coupled with penalties on site occupiers);
 - a new bypass west of Roade, with a four-arm roundabout part way along connecting with Blisworth Road³³;
 - highway mitigation works and measures:-
 - enlargement and reconfiguration of Junction 15;
 - widening of the A45 north of Junction 15 and signalisation of its junction with Watering Lane;
 - improvement of Junction 15A; and
 - 7.5T environmental weight restrictions (access permitted for loading); throughout Roade; along Knock Lane / Blisworth Lane, between the bypass and Stoke Road; along Blisworth Road (aka Courteenhall Road) between the A508 and High Street Blisworth including parts of Blisworth; along the unnamed road between the A508 and Quinton;

³³ This is a road from Roade to Blisworth
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throughout Stoke Bruerne and Shutlanger; in Wootton & East Hunsbury, west of the A45, east of Towcester Road and south of the A5076.

- Alterations at key locations along the A508 as part of an upgrade comprising:
 - Blisworth Courteenhall Road junction improvement, making it left in - left out;
 - C26 Rookery Lane / Ashton Road junction improvement;
 - C85 Pury Road junction improvement;
 - C27 Stoke Road / Knock Lane junction improvement and widening of Knock Lane/Blisworth Road (not on the A508 but needed because of additional traffic volumes on the A508); and
 - Pedestrian crossing, at a bus stop and a ghost island in Grafton Regis.

5.3.4. There would also be financial contributions to NCC:

- for capacity improvement at the Queen Eleanor Interchange on the A45 and at junctions along the A5076 between the A45 and the A5123; and
- for maintenance and minor works to Knock Lane and Blisworth Road in the event increased use gives rise to need for maintenance or other remedial works.

5.3.5. These are described in greater detail in paragraphs 12.6.9 – 12.6.70 which also describe further measures. These include:

- changes to speed limits to be made on the A45 and A508;
- a walking and cycling strategy. This has several components:-
 - improvements to the footway / cycleway alongside the A508 which when taken together would create a footway / cycleway along the A508 from Roade to the existing footway/cycleway in Northampton to the north of Junction 15 and connecting to the Main Site. The footway / cycleway crossings at Junction 15 would be controlled. Within the Main Site, there would be shared footway / cycleways providing access to the warehouse development plots and rail terminal. A shared cycle track would link over the existing M1 footbridge from Collingtree. In the Roade area, the proposed bypass crosses the routes of a number of footpaths and bridleways. Crossing arrangements are to be created for these. Footpath KZ2A is to be diverted. Footway / cycleway provisions are made at the three roundabouts on the bypass. There are other footway / cycleway alterations;
- a Public Transport Strategy focussed on a new bus service to be provided from the town centre to the Main Site and new bus stops on the A508 for existing services. Buses would access the site. The Public Transport Strategy would be overseen by the Sustainable Transport Working Group created under the Framework Travel Plan;
- road safety – delivered via the Stage 1 Road Safety audit [APP-265] and Response Report [APP-266]; and
- parking provision – this would use NCC's latest (2016) parking standards and include additional secure, dedicated HGV parking. (Eight per cent of car parking would be marked for those who are car-sharing, to promote

and encourage car-sharing. Five per cent of the spaces would include electric charging points with passive provision for a further 15%.

Steps taken to assess environmental effects

- 5.3.6. The assessment was carried out using a WebTAG compliant transport model and best practice methodology. The local highway network and SRN were assessed, in accordance with DfT Circular 02/2013. Impact of changing conditions as a result of the works described above was also assessed, based on guidance in the DMRB.
- 5.3.7. In accordance with the scoping report, assessment was based on a comprehensive modelling exercise. A Transport Working Group was established to oversee this, made up of representatives of NCC and HE (as the two highway authorities), HE's term consultant (Aecom), and transport consultants for the applicant. It met monthly. NBC also attended and represented SNC as well.
- 5.3.8. The modelling was done using NCC's strategic model, NSTM2, with further junction analysis using micro-simulation and industry-standard assessment tools. There was also walking, cycling and horse-riding assessment and Stage 1 road safety audit.
- 5.3.9. The methodology, scope and modelling inputs were agreed with NCC and HE. It should be noted that the multi-modal facility within NSTM2 was not used. Modal split targets were instead identified in the Framework Travel Plan [APP-232] and Public Transport Strategy [APP-233]. Assessment of impacts was undertaken without considering the effect of the FTP and PTS.
- 5.3.10. The Transportation Chapter of the ES describes the existing conditions in some detail. These are summarised in the following paragraphs.
- 5.3.11. The M1 is congested during the weekday morning and evening peak hours and at other times. A Smart Motorway scheme is programmed for construction between June 2018 and March 2022.
- 5.3.12. Junction 15 can be difficult to navigate and the approaches from the A45 (from the north therefore) and A508 (from the south) are confusing. It can be difficult for vehicles joining from the A508 to judge entry.
- 5.3.13. Junction 15A – northbound and southbound M1 off-slips are susceptible to peak time congestion, especially the northbound off-slip.
- 5.3.14. The A45, an important and the main arterial route from the M1 to Northampton and beyond to the A14, carries large volumes of traffic and is particularly busy at peak times.
- 5.3.15. The A508 links the M1 (Junction 15) to the A5 in the south, bisecting Roade and passing adjacent to Grafton Regis. There is a T junction with Courteenhall Road to the south of the Main Site. Drivers turning right off the A508 into Courteenhall Road block southbound traffic on the A508 causing queues and delays. Through the village of Roade there is frequent stop-start traffic and queues can develop at peak times. The bridge over the railway is

narrow and HGVs from opposite directions often have to give way to one another. There are morning peak queues at the A508 / High Street mini-roundabout of 100m. Evening peak queues can reach 166m. There are other locations with queues in the morning peak at around 15.00.

- 5.3.16. To the south of Roade, south of the staggered Rookery Lane / Ashton Road crossroads there is a known accident hotspot on a series of bends.
- 5.3.17. In terms of walking, cycling and equestrians the footpaths there is a bridleway that would be crossed by the Roade Bypass.
- 5.3.18. There are bridleways to the north of the Main Site which link to cycleways through East Hunsbury en-route to Northampton. There are footpaths in the vicinity of Roade which would be affected by the proposed Bypass.
- 5.3.19. There are some footways / cycleways and footpaths at Junction 15. Only one crossing of the traffic (the M1 northbound on-slip) has a dedicated signal. Whilst to the north of Junction 15 along the A45 there is a shared footpath / cycleway it is interrupted at the A45 layby and recommences at Watering Lane.
- 5.3.20. There are cycle networks in East Hunsbury and Grange Park. NCN Route 6 is to the east of the Main Site.
- 5.3.21. There are no walking, cycling or horse-riding facilities at Junction 15A and a crossing is located where the A43 northbound approach to Junction 15A is proposed to be widened to accommodate a new flared lane.
- 5.3.22. The Transportation Chapter of the ES describes other footways and crossings in some detail (paragraphs 12.4.23 – 40); two footpaths cross the Main Site. There are a number in the vicinity of Roade which would be affected by the Roade Bypass.
- 5.3.23. The baseline description concludes that opportunities for pedestrian travel are limited as there is a restricted number of residential areas within acceptable walking distance. There is a role for pedestrian travel as it forms links to public transport. There are good opportunities for cycle travel. The M1 could be a barrier to travel to and from the north-east of the Main Site.
- 5.3.24. Public transport to the Main Site is currently limited. Two of the services are express limited stop services with stops some way from the site. The frequent stop service operates hourly between 0900 and 1800 hours. This is a convenient point to add that some IPs pointed out that some of the services are due to change; we are satisfied from submissions made to the Examination by the Applicant that the effects of these have been taken into account.³⁴ This means there are no services at 0600 hours and 2200 hours which are the key shift changes. The Northampton Bus Strategy indicates that an hourly service is insufficient. There is a train service with trains to Rugby at least every 20 minutes at peak times and direct trains to London

³⁴ See the Applicant's response to other parties' D2 submissions, page 26 [REP3-009]

and Birmingham. There are opportunities for travel by train completed by cycle or bus at Northampton.

- 5.3.25. In relation to baseline highway safety the Transportation Chapter notes personal injury assessment data showing clusters and trends which suggest existing problems at Junction 15, Junction 15A, the Queen Eleanor Interchange, A45, A508 Blisworth / Courteenhall Road junction, the A508 bend to the south of that junction, the A508 bends to the south of the Rookery Lane / Ashton Road junction and the A43 / Towcester Road junction.
- 5.3.26. The Applicant describes at section 12.5 of the Transportation Chapter [APP-116] how modelling was carried out.

Residual effects

- 5.3.27. We deal first with construction effects. The construction HGV and LGV traffic effects for the busiest year - year 2 - are summarised at paragraphs 12.7.21 – 22. The estimated two-way movements are 34 HGV per hour and 8 LGV movements per hour. It is explained that, even if doubled to accommodate short periods of peak demand, the flows are low in the context of adjacent highway flows, which at Junction 15 average 6,500 vehicles in each of the morning and evening peak hours. Hence no mitigation works are proposed.
- 5.3.28. For construction workers the same year, year 2, is the busiest and a total of 304 daily one-way movements are forecast. The trip distribution has been extracted from NSTM2 which shows it would be spread over a number of routes and their impact is therefore diluted. Given also that the times of construction workers do not generally coincide with highway peak hours, the Applicant concludes that construction staff movements would not have a material impact on the existing highway network.
- 5.3.29. The CEMP would also apply (which requires details of construction traffic routing to be specified in the P-CEMPs and agreed with HE and NCC as appropriate) and heavy construction traffic would not be permitted to travel south on the A508, except in relation to the construction of the Roade Bypass. The Applicant concludes at para 12.7.27 that the construction phase would have a temporary adverse impact of moderate significance on the operation of the surrounding highway network.
- 5.3.30. We turn to operational effects. The Applicant explains that the modal shift from road to rail could remove 92 million HGV miles per year from the highway network; that many of the HGV trips forecast from the Proposed Development are already on the network; and that the modelling has assumed that all HGV trips associated with the Proposed Development are new. The modal shift is considered (paragraph 12.7.45) to be a permanent beneficial impact of major significance.
- 5.3.31. The two-way vehicle trips are estimated at 16,531 per day (see Table 12.7 of the Transportation Chapter). The 2031 D1 Reference Case (ie background traffic) shows that without any intervention the background traffic growth on the A508 would be restricted to 1% and 5% in the morning and evening peak periods. Yet the expected background traffic average growth in the

Northamptonshire area is 25%. This means that the surrounding local roads would be required to accommodate a greater proportion of the traffic growth in the 2031 D1 Reference Case. The Applicant's highway mitigation proposals release existing constraints and so allow the A508 to accommodate the additional traffic and to function as intended³⁵. This leads to a reduction in traffic through many local roads and the villages.

- 5.3.32. The Applicant concludes that the impact of the increased traffic on the A508 with the proposed mitigation works is satisfactorily accommodated. Traffic reductions in Roade are forecast as 74% and 52% in the morning and evening peak respectively, and 60% during the day.
- 5.3.33. A number of other mitigation steps are identified along the A508 corridor together with their benefits. Some are not wholly beneficial or have proved to be controversial. The increase in traffic using the A508 at Grafton Regis, which has a 300m frontage to the A508, would cause some severance as well as result in a reduction in flows on Church Lane through the village. Thus, a new pedestrian crossing with central refuge is to be provided. This also provides a right turn harbourage facility. Turning the A508 Blisworth / Courteenhall Road junction into a left-in left-out junction would remove queues and delays on the A508 southbound but would require residents of Blisworth coming from the north to continue to the Roade Bypass and drive back up to Blisworth using Knock Lane.
- 5.3.34. Micro-simulation modelling of Junction 15, the A45 major upgrade and Junction 15A improvements show significant improvements compared with the 2031 D1 Reference Case. These are shown in Tables 12.11 and 12.12 [APP-116] which are reproduced below.

Table 1 – extract from the ES

Table 12.11: Average vehicle speed

Period	2031 D1 Ref Case	2031 J1d Dev Case	% Change
AM Peak Hour	35 mph	37mph	+6%
PM Peak Hour	27 mph	39 mph	+47%

Table 12.12: Average delay per vehicle

Period	2031 D1 Ref Case	2031 J1d Dev Case	% Change
AM Peak Hour	141 seconds	84 seconds	-40%
PM Peak Hour	249 seconds	76 seconds	-69%

- 5.3.35. They show that with the development operational and the mitigation works in

³⁵ The Transportation Chapter, paragraph 12.7.56 where this is explained, originally said "The highway mitigation proposals release existing constraints that allow the A508 to accommodate additional traffic ...". We queried the meaning and the use of the word "that"; the Applicant confirmed the correct words should be "and so"
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place the average vehicle speeds would increase by 6% and 47% in the morning and evening peak hour respectively, and delay per vehicle would reduce by 40% and 69% in the morning and evening peak hours respectively. Journey times would decrease – see Table 12.13.

Table 2 – extract from the ES

Table 12.13: Change in of average journey between 2031 D1 Reference Case and 2031 J1d Development Case

Period	Change in average journey time per car	Change in average journey time per HGV
AM Peak Hour	-27%	-37%
PM Peak Hour	-48%	-55%

5.3.36.

and paragraph 12.7.70 which states:

"The positive impact of the proposed mitigation schemes at M1 Junction 15 and M1 Junction 15A are particularly evident when considering the journey time comparisons on routes from the A508 (all routes), M1 South (to A43 & A5123), A45 (all routes) and the M1 North (to A43 and A5123), where the journey times are reduced by around 60% in the morning peak period and by up 90% in the evening peak period when compared to the 2031 D1 Reference Case scenario."

5.3.37.

Three routes see increases, namely (in both peak hours) Saxon Avenue to the A45; Watering Lane to the A45 and (in the morning peak) Saxon Avenue to Watering Lane. These are due to having to negotiate a larger Junction 15 and the signalisation of the Saxon Avenue and Watering Lane approaches to Junction 15 and the A45 respectively³⁶. However, the number of vehicles undertaking these movements is low in comparison with the overall traffic and the Saxon Avenue queue lengths would be expected to clear with each traffic light cycle.

5.3.38.

Queues on the A45 approach to Junction 15 in the morning peak are expected to reduce from 2.5 kms in the 2031 D1 Reference Case to 475m in the J1d Development Case. Queues on the A508 approach are forecast to reduce from 1.5 kms to 15m.

5.3.39.

The corresponding reductions for the evening peak are from 2.4 kms down to 65m and from 100m down to 25m.

5.3.40.

Queue lengths on the M1 slip roads would also improve. The micro-simulation modelling shows that in the 2031 D1 Reference case queues on the southbound diverge would exceed the length of the slip road and impact on traffic on the M1 mainline. At Junction 15A queueing on the north- and south-bound diverge is expected to exceed the length of the slips in the 2031 D1 Reference Case. The northbound diverge queues would extend some 3 km in the morning peak and 5 km in the evening. The southbound diverge

³⁶ These two highways respectively give directly onto Junction 15 and the A45 northbound
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would extend some 2 km in the morning peak and 3.75 km in the evening peak. However, in the 2031 J1 Development case (in other words with the development and its mitigation in place) the queues would be comfortably stored on the slip roads.

- 5.3.41. In the case of the A45 Barnes Meadow Interchange the flows on the A45 in the Development Case scenarios are not expected to be significantly higher when compared with the Reference Case flows. But analysis shows that development traffic is present on the A45, meaning the background traffic is reassigning away from this route, because the capacity of the A45 north of the Interchange is forecast to be exceeded in the Reference Case scenarios. This is because of increase in traffic associated with committed and planned development. It is thus an existing problem.
- 5.3.42. The effect of the reassigned and development traffic on the study area junctions was assessed. It shows there would not be severe impact on these junctions when considering their practical reserve capacity and total delay. Localised impacts were identified at three locations – the A5076 Mere Way approach to the Queen Eleanor Interchange; the Mere Way approach to the A5076 Danes Camp / Mere Way / Towcester Road gyratory; and the A5123 approach to the A5076 Danes Camp Way / A5123 Upton Valley Way / A5075 Upton Way gyratory. NCC required improvements and they have been identified in the Traffic Assessment. A financial contribution equivalent to the cost of implementing those works is to be made to NCC to be used for them or as part of a wider package of works on the Queen Eleanor Interchange and A5076 corridor.
- 5.3.43. The Applicant concludes that the residual effects of the Proposed Development and highway mitigation works would be a permanent beneficial impact of major significance.
- 5.3.44. We now turn to impact on pedestrians, cyclists, equestrians (non-motorised users, (NMUs) and the community. We briefly described the baseline position at paragraphs 5.1.61- 66. It should be noted that the NPSNN has policies on NMUs. Paragraph 2.9 states that *"In particular, development will be needed to address safety problems, enhance the environment or enhance accessibility for non-motorised users"*.
- 5.3.45. The Applicant drew attention to paragraph 3.17 in its Planning Statement [APP-376] page 57. It reads:
- "The Government expects applicants to use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes. The Government also expects applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems, retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions."*
- 5.3.46. Paragraph 5.205 of the NPSNN states:

"Applicants should consider reasonable opportunities to support other transport modes in developing infrastructure. As part of this, consistent with paragraph 3.19-3.22 above, the applicant should provide evidence that as part of the project they have used reasonable endeavours to address any existing severance issues that act as a barrier to non-motorised users."

(Paragraphs 3.19 -3.22 set out policy on accessibility and require improved access wherever possible on and around national networks. Schemes should take account of accessibility requirements of those affected; all reasonable opportunities to deliver improvements on and to the national road network should be taken wherever appropriate. The equality duty is highlighted. Severance can be a problem and where appropriate improvements to reduce community severance should be delivered.)

5.3.47. Paragraph 5.216 states:

"Where development would worsen accessibility such impacts should be mitigated so far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated."

5.3.48. The conditions for NMUs would change. Some journey lengths would increase, mainly on the footpaths currently crossing the Main Site, where footpath KX17 increases by 800 metres (68%) and KX13 by 180 metres (13%). The Roade Bypass would affect four footpaths and a bridleway. Suitable crossing points are to be provided for the footpaths and an underpass for the bridleway. (The impacts on the footpaths crossing the Main Site are also considered in the landscape and visual impacts section in Chapter 7.2 of this Report). There would be more traffic on the A508, the A45, Junction 15 and Junction 15A. A large percentage more cars would use Knock Lane (though the Applicant adds that actual volumes would be low).

5.3.49. A new cycle track would link the A508 with Collingtree via the footbridge over the M1. There would be also be a continuous cycle path along the A508 from Roade to Junction 15 and a missing link would be provided between Junction 15 and Watering Lane. These two improvements would give access to the Northampton cycle network. There would be controlled pedestrian / cycle crossings at all the arms of Junction 15. There would be other shared footway / cycleway facilities and pedestrian improvements. These would also support public health benefits.

5.3.50. As a result of traffic being drawn onto the A508 flows would reduce on many surrounding local roads. The HGV routeing strategy and the 7.5 tonne weight limit would restrict HGV access to only suitable routes and the Roade Bypass would reduce traffic through the centre of Roade. This would improve cyclist and pedestrian routes and connectivity.

5.3.51. Overall, the Applicant concludes there would be a permanent adverse impact of minor significance on amenity and a negligible impact on severance and journey length and local travel patterns.

5.3.52. Impact on vehicle travellers was assessed in relation to driver stress and the view from the road. On the former, the Transportation Chapter explained that this has three main components; frustration; fear of accidents and

uncertainty relating to the route being followed. The highway works and their effects were considered and assessed as causing a beneficial impact of moderate significance on driver frustration; a beneficial impact of minor significance on driver fear; and a negligible impact on route uncertainty.

5.3.53. In terms of the view from the road, the issue was explained as the fact that a new road may enable more people to see the landscape than before – the extent to which travellers are exposed to different types of scenery through which the route passes. The Roade Bypass would provide restricted views of Roade to the east and more open views to the west, with a brief view over the railway from the new bridge. Views across the Main Site from the M1, A508 and local roads would be replaced with views restricted by embankments and landscaping screening.

5.3.54. The Applicant concluded that the Proposed Development and highway mitigation works would have negligible impact on the view from the road.

5.3.55. Traffic modelling includes all committed and allocated sites and committed infrastructure and this includes HE's Smart Motorway projects. Thus, cumulative effects with these developments are already taken into account in the assessment. The RC proposal is on an adjacent site and there was separate modelling which is detailed in Technical Note 12 which forms Appendix 12.2 to the ES [APP-298]. The Transportation Chapter included some comment on cumulative effects with RC. However, this was caveated as further information was expected. Following the difficulties with RC's highway assessment which emerged during the examination of Northampton Gateway, it was urged on us at ISH4 by both the Applicant and RC that there are not any reliable figures for the RC development on which to base cumulative traffic effects. We accept those submissions.

5.3.56. The Applicant concludes:

- as a result of the mitigation there would not be any permanent moderate or major significant adverse residual effects on the operation of the surrounding highway network;
- the CEMP would ensure that any adverse impacts during the construction phase are minimised and the development would have a temporary adverse impact of moderate significance on the operation of the surrounding highway network;
- the modal shift and resultant reduction in HGV mileage represent a permanent beneficial impact of major significance;
- the residual effects of the Proposed Development and highway mitigation works in general traffic impact terms would be permanent beneficial of major significance;
- impacts on NMUs and the community from the Proposed Development would be permanent adverse of minor significance on amenity and negligible impact on severance, journey length and local traffic patterns;
- impacts on vehicle drivers from the Proposed Development and highway mitigation works would be permanent beneficial of moderate significance on driver stress and negligible on the view from the road; and
- only tentative assessment of cumulative impacts with RC is possible and ongoing assessment may lead to further changes in its strategy which

may alter cumulative effects. As we observe above, by the time of ISH4 it became clear there were no reliable data about traffic from the RC proposal such as would found any cumulative assessment of highway impacts.

LIRs, written representations by and SoCGs with NCC, HE and the RPAs

- 5.3.57. NCC is the local highway authority and its LIR [REP1-036] addressed highways. Notable points are:
- the Junction 13-to 16 Smart Motorway upgrade of the M1 began in June 2018;
 - in January 2016 NCC's Cabinet considered the need for improvement of the A508; *"As set out in the Statement of Common Ground between the applicant and the County Council in relation to highway matters (Doc 7.5, [AS-006]), the County Council accepts that the proposed highway works are necessary and appropriate to mitigate the impact of the proposed development"* – paragraph 2.22.
- 5.3.58. NCC's WR covers similar points.
- 5.3.59. SNC, the local planning authority (LPA) for the majority of the Proposed Development, also submitted an LIR [REP1-038] which raised a number of highway transportation issues. Its WR raised similar issues and emphasised the importance of the delivery of the Roade Bypass.
- 5.3.60. The points SNC raised on highway transportation issues are either addressed in responses made by the Applicant to other parties' points or, in the case of paragraphs 95-98 of the LIR, are addressed by the Applicant in its comments on the LIRs [APP2-009]. We are satisfied in both categories.
- 5.3.61. NBC, the neighbouring LPA, through whose area traffic associated with the Proposed Development would pass, also submitted an LIR [REP1-089] addressing highways. Its issues were:
- impacts on local roads particularly in the context of committed housing growth;
 - measures would be needed to ensure HGVs do not rat-run through residential areas;
 - routeing and mitigation of construction traffic should be agreed with RPAs; and
 - the introduction of a new bus service and retention of pedestrian / cycle access over the M1 was welcomed.
- 5.3.62. NBC's WR raised similar issues.
- 5.3.63. The first and second issues are addressed satisfactorily in the Applicant's comments on the LIRs [APP2-009]. Routeing and mitigation of construction traffic is addressed in the CEMP, which contains provisions on routeing of and vibration and noise from construction traffic, and the cleaning of vehicles leaving the site. We are therefore satisfied on this issue.

5.3.64. HE submitted a RR [RR-647] which stated:

"Highways England and the applicant have reached agreement on a number of matters as reflected in the statement of common ground submitted by the Applicant, however there are still some issues outstanding that need to be addressed before Highways England can be satisfied that no concerns remain. These include, inter alia: ..." followed by a list of seven matters and a statement of expectation that they would be positively resolved.

5.3.65. In its later WR [REP1-115] HE said:

"The significant amount of work carried out to date means that few issues remain in dispute that Highways England and the undertaker have been unable to come to an agreed position on (and therefore requires the submission of these detailed Written Representations by Highways England)."

5.3.66. It explained the two major issues for HE were drainage and the deemed approvals regime in the DCO for approvals required from it, and that there were two minor issues - signage and land acquisition. HE's drainage point is dealt with below and the DCO issues are dealt with in the DCO section. There were two minor issues – signage (dealt with below) and land acquisition. The latter is addressed in the CA section of this report.

5.3.67. HE signed five SoCGs. In SoCG Doc 7.1 [APP-382] it said:

"Highways England agrees that subject to the satisfactory securing of the highway mitigation measures and the associated mitigation to be delivered by the Travel Plans and Public Transport Strategy, there would be no significant adverse residual transport impacts associated with the Development proposals".

5.3.68. The other SoCGs deal with drafting, highways departures / signage, drainage and the Smart Motorway scheme.

5.3.69. SoCG Doc 7.1D [AS-050] records resolution of the signage / departures issue and the drainage issue referred to in its WR and consequent approval of drafting of Art 21 as included in the dDCO submitted for D2 (Doc 3.1B [REP2-005]).

Written representations and objections by other parties

5.3.70. Stop Roxhill Northampton Gateway (SRNG) submitted a RR [RR-488] which in relation to traffic stated:

"There are no proposals within the application to address the adverse impact of the increase in traffic to, and from, Northampton along the already severely congested A45. The improvements to junction 15 of the M1, and the access into the site from the A508 would be inadequate to sustain the flow of traffic." and

"The A508 and A45 are already active 'Red Routes' due to accident incidence, the Tiffield and Blisworth junctions of the A43 are monitored by Highways England and SNC due to the high number of serious accidents.

The Roade bypass is put forward as a significant benefit to its villagers. However the applicant has admitted in conversation that the bypass is not planned to be built until 2 years after opening, or 4 years after the commencement of the development. The proposed bypass would result in the diversion of public rights of way; the proposals are already blighting home ownership in the west of the village; would shift pollution not reduce it; increase traffic along the A508 without resolving its overall problems, and likely lead to the loss of valuable local facilities serving the village."

- 5.3.71. SRNG's WR contained a 42-page part B addressing traffic and transport. We have considered its arguments and the responses of the Applicant. There has been an extensive exchange utilising almost every deadline.
- 5.3.72. SRNG first questions the robustness of traffic forecasts. In this respect, we note that from the SoCGs (especially Doc 7.1A [REP1-005] and Doc 7.5A [REP1-009]) with HE and with NCC that the traffic assessment and Transportation Chapter of the ES has been agreed with them. They have also had considerable input into the modelling as also evidenced by SoCGs and the NCC LIR, and WRs from NCC and HE. The Transportation Chapter also evidences this. Having considered all the evidence we prefer and accept the submissions of the Applicant.
- 5.3.73. SRNG's second issue is the site access arrangements. This includes criticism of the VISSIM modelling – part of the traffic modelling – carried out. With this we include the critique of the VISSIM modelling made by Dr John Davies at [REP2-024] and elsewhere. Again, we have reviewed the evidence carefully. We accept the Applicant's view with one qualification. We consider that there should be a protocol on the operation and maintenance of the barrier which prevents right turning movements. This does not appear to be addressed in the Requirements in the Applicant's final version and we propose a small amendment, by adding the words "operation and" before "maintenance protocol" to Req 8(2)(I), thus ensuring that the arrangements for opening and, importantly, closing the barrier after its opening has been required during an M1 closure and use of the A508 as a diversion route, are in place. This issue was raised by SRNG in their comment on the Applicant's response to ExQ1.11.6 [REP4-023].
- 5.3.74. The third issue is Junction 15 and its layout. This is another case where the design and modelling has been developed in consultation with the highways authorities who have agreed it taking into account safety and capacity. We have considered the exchanges between SRNG and the Applicant carefully and all the other evidence, and in our view the Applicant's case is convincing.
- 5.3.75. The fourth issue is impact on the A45 corridor going north from the M1 at Junction 15. SRNG contends that the proposal to signalise the Watering Lane junction, which is not far north of Junction 15, is unacceptable and a modified version of the existing short slip road should be implemented. The Applicant has replied that this is not possible for reasons of the proposed

configuration of the A45 at that point and for safety. SRNG also objects to the imposition of a 30 mph speed limit on the A45; but the Applicant responds that that is about the current observed speed. In relation to capacity further north, SRNG states this would be inadequate, and points to the Northampton Growth Management Scheme, conceived to address the recognised high flows on the A45.

- 5.3.76. The Applicant's modelling has shown that there would be effects on the Queen Eleanor Gyratory. At the Barnes Meadow Interchange, the with-Development flows are not significantly higher than the reference case. But modelling did reveal that background traffic was reassigning to elsewhere on the network. The resulting package of junction improvements is subject to an agreed financial contribution which is secured by the s106 agreement. Considering the exchanges between SRNG and the Applicant and all the other evidence, we therefore accept the Applicant's case.
- 5.3.77. The fifth issue is the Roade Bypass. SRNG argues that the effects on Knock Lane have been under-stated and that there would be rat-running through Blisworth. It also refers to the possibilities of infill between the village and the bypass, air pollution issues and other effects, to an alternative (eastern route which has the possibility of addressing other existing issues as well), and to a CPRE report that bypasses do not achieve their objectives. It also refers to an exit poll taken at the Roxhill Consultation Exhibition in October 2017 in Roade.
- 5.3.78. Air pollution and other effects are where appropriate considered elsewhere in the ES and this Report. The possibility and effects of infill would be addressed if future planning applications are made for such development. We have to consider the route which is the subject of the application. The CPRE report was not supplied to us but we were provided with a link to a blogpost about it. The quotation used by SRNG is, according to the blogpost, from a SACTRA³⁷ report in 1996 highlighting the well-known view that new roads cause more traffic. We have worked on the basis that the modelling has so far as appropriate addressed this view, as will the SoS's policy. In any case, the report is not specific to the application before us.
- 5.3.79. The modelling and inputs, as we have observed before, have been approved by HE and NCC. Another link supplied by SRNG to a different report, by SACTRA, did not work³⁸ and we were not supplied with the report. It also will not have been specific to this application and we can only work on the basis that the traffic modelling and Government policy will have, so far as appropriate, taken such matters into account.
- 5.3.80. The Applicant responded to the Roade bypass objection in the exchanges and particularly in its Documents 8.7 [REP2-010] and 8.11 [REP4-012]. The evidence as a whole, and the Applicant's replies in these documents, answer to our satisfaction the SRNG points on the Roade bypass, the effects on

³⁷ The Standing Advisory Committee on Trunk Road Assessment

³⁸ It produced the "Page not found – 404" response on 24th May 2019
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Knock Lane and Blisworth, and on the reliability of the results from the traffic modelling.

- 5.3.81. The sixth issue is the A508 corridor. SRNG makes a number of points about accidents on the A508 and highway safety and traffic volume. It also draws attention to the scoping opinion where, at paragraph 3.77 *"The Applicant's attention is drawn to the comments in Appendix 3 on issues of particular concern that consultees wish to see included in the ES..."*. A number of junctions and roads are then listed together with the names of the relevant consultees. SRNG draws attention to the A5 / A508 / A422 junction.
- 5.3.82. The Applicant makes the point in various documents that highway safety issues are taken into account in the design of the highway proposals, for example at its response to D6 submissions [REP7-007]. Insofar as the assessment of the junctions to which SRNG refers is concerned, the Applicant responds [REP2-010]:
- "The NSTM2 'actual flow' traffic data at TA Appendices 43 to 45 provides traffic flow information for the roads and locations listed at paragraph 3.77 of the Scoping opinion. The impact of the Proposed Development on those roads and locations is provided via the flow difference plots provided at TA Appendix 24. The impact of the Proposed Development was considered based on this information and the study area for detailed assessment agreed with the highway authorities. The agreed study area for detailed assessment is shown at Figure 6.1 of the TA. Locations beyond the study area did not require detailed assessment"*.
- 5.3.83. Taking this and all the other evidence into account we are satisfied with the Applicant's approach.
- 5.3.84. SRNG also raised cumulative effects. It is clear that the traffic modelling and ES on traffic aspects of transport have taken into account committed and allocated sites. The Applicant specifically stated in the Transportation Chapter [APP-116] paragraph 12.8.1 that it includes committed infrastructure schemes and those highly likely to come forward before the forecast assessment year. It mentions that this includes the Smart Motorway works.
- 5.3.85. Andrew Bodman in his 'Review of Network Rail's response to Examining Authority's second set of questions' [REP6-020] suggested that the effects of HS2 construction traffic and its construction compound north-east of Brackley on the A43 had not been taken into account. SRNG made a similar point in its WR [REP1-054]. The Applicant's response to other parties' D6 submissions [REP7-007] makes it clear that the modelling did take that into account.
- 5.3.86. The relevant highway authorities - HE and NCC - have approved the model and the inputs into it. They each had a seat on the Transport Working Group which oversaw the process. So far as cumulative effects with RC are concerned, as we observe elsewhere in this Report, there are issues with the RC traffic data and assessment which mean that there are no reliable data on which cumulative assessment with that scheme can be done. That is the

position of both the Applicant and RC. Cumulative assessment of the two schemes would need to be looked at of course as part of the RC application currently in the system but delayed.

- 5.3.87. We turn to consider a number of other issues raised by other IPs, beginning with Woodleys. This is a building on the A508 where a day nursery is situated. Traffic turns into it from both directions. Various safety issues are raised by a number of IPs including Vivian Blyth [REP2-023]. The Applicant's response at its Docs 8.21 [REP6-014] and 8.23 [REP7-007] is that a stage 1 safety audit has already been carried out and that further safety audits would be carried out in accordance with the protective provisions of the dDCO. We are satisfied with that answer.
- 5.3.88. Andrew Bodman at [REP2-013] and others raise the question of how the HGV routeing strategy would actually be enforced. We too wanted to know the answer to this, particularly as it was originally in the s106 agreement where there appeared to be difficulties. It is now in the DCO, there was discussion about it at ISH5, and we are content with the scheme.
- 5.3.89. A number of IPs raised the issue of the effect of the development traffic on the A508 when it is being used as the M1 emergency diversion route. The Applicant dealt with this at ISH2 and in written submissions, including its Doc 8.23 – Applicant's response to other parties' D6 submissions [REP7-007]. Its answer, with which we are satisfied, is:

"The scenario referred to at ISH2 and referenced in the Applicant's response to ExQ2.1.35, is in the PM peak hour when there is forecast to be 1,303 traffic movements associated with the SRFI site. This has been assessed because it is the worst case in terms of combined development and background traffic. The 200 vehicle movements referred to is the total additional development traffic that would use the A508 to route south in the scenario described. This would be made up of 163 light vehicles and 37 HGVs. Only 37 of the 200 additional development vehicles would therefore be HGVs, not all 200 as is stated by SRNG. The three roundabouts on the A508 Roade Bypass would provide breaks in traffic allowing movements to and from Roade. In addition, the high volumes of traffic, which the A508 is required to accommodate when it is functioning as a diversion route, are such that traffic moves slowly."

Public rights of way

- 5.3.90. Two footpaths cross the Main Site. They would be diverted around it. The Roade Bypass affects some PRoWs, namely four footpaths and a bridleway. They are listed at paragraph 12.7.92 of the Transportation Chapter of the ES [APP-116]. The Northampton Ramblers made a RR [RR-437] stating that it objected because of, amongst other things, *"The destruction of the local footpath network, in particular the footpath between Milton Malsor and Collingtree"*. That is one of the footpaths across the Main Site.
- 5.3.91. Where footpaths are crossed by the Roade Bypass they are linked, with minor diversions where necessary. The bridleway would be provided with an

underpass. Some concerns are expressed about the underpass, and at least one IP has a concern about the severance effect of the bypass.

- 5.3.92. Work along the A508 would fill gaps in the current footway / cycleway and provide a footway / cycleway from Roade to Northampton. The new cycleway alongside the A508 adjacent to the Main Site would also link to the cycle / pedestrian bridge over the M1 to Collingtree and thence to the cycle network to Northampton.
- 5.3.93. The Transportation Chapter concludes that the impacts for pedestrians, cyclists, equestrians and the community would be permanent adverse of minor significance on amenity and negligible impact on severance, journey length and local travel patterns. We have not seen evidence to persuade us otherwise. We are satisfied that the short diversion of footpath KZ2A is appropriate and acceptable.

The Examining Authority's Considerations

- 5.3.94. We examined the road transport aspects of the Application as required by PA2008 including the issue of written questions and further written questions and in the course of two ISHs - ISH2 and ISH4. There was considerable concern on the part of IPs about the ability of the road network to handle over 16,000 vehicles per day from the Proposed Development and effects on the A508 particularly when it is being used as an emergency diversion route for the M1. There were concerns about the effects on villages and residential areas. We have summarised and indicated our conclusions on many of these issues in the preceding parts of this section, mainly the sections on the LIRs, SoCGs, WRs and other objections.
- 5.3.95. In relation to the concerns about effects on the A508, whilst it is being used as a diversion route, the Applicant explained in its post-ISH2 submissions [REP4-011] that the worst case would be a southbound pm peak hour closure of the M1 which would, without the development, result in about 6,000 vehicles per hour diverting onto the A508 southbound. Development vehicles added to that would be 200. This would be a small proportion and we agree that it is not significant. There were later written exchanges between parties but we do not consider they change that fundamental position.
- 5.3.96. Many concerns were expressed by IPs about the proposed left-in / left-out configuration of the Courteenhall / Blisworth Road junction on the A508, and consequent need for those travelling to Blisworth down the A508 to use the Roade Bypass and Knock Lane. The proposal, which prevents traffic from turning right off the A508 to Blisworth, and right out of the road onto the A508, is obviously an important change. We are of the opinion, however, that it has important gains in terms of the flow of traffic along the A508. They outweigh the inconvenience of the change. For those reasons we accept the Applicant's left-in / left-out only design. We would add from our own observations that the driving experience of the right turn off the A508 is uncomfortable.

- 5.3.97. In terms of policies in the NPSNN, we are satisfied that the policies we have referred to are complied with in relation to road transport. Paragraph 2.52 of the NPSNN which states that "*SRFIs can provide considerable benefits for the local economy*" and that "*the availability of a suitable workforce will therefore be an important consideration*" is addressed elsewhere in our report.
- 5.3.98. The sections of the NPPF to which the Applicant referred, listed above, are also complied with. We also drew attention to paragraph 110(e) on charging provision and that is also met – see Req 8(1)(c). We noted paragraph 103 of NPPF above which advises that significant development should be focussed on locations which are or can be made sustainable through limiting the need for travel and offering a genuine choice of transport modes. The Applicant, however, would provide a new bus service and the proposals would provide for cycling and walking. If there were still to be a concern that this is not a sustainable location we consider that this is overridden by the NPSNN's policies – SRFIs need large sites and can only realistically be located adjacent to railway lines and the road network.
- 5.3.99. In relation to NMUs and paragraph 3.17 of the NPSNN the Applicant submits in its Planning Statement [APP-376]:
- "The highway works proposed as part of the scheme include pedestrian and cycle provision which will ensure safe and easy access for pedestrians and cyclists and improve the accessibility of the area generally, including helping to address barriers to movement such as the M1 and the A508[?](sic)³⁹."*
- We agree. This meets paragraph 3.17.
- 5.3.100. In relation to severance and paragraph 5.205 of the NPSNN the Applicant identified an existing severance issue at Grafton Regis, namely that associated with crossing the road (A508) to reach the northbound bus stop. The Applicant has therefore included a pedestrian crossing and refuge at this point. This meets paragraph 5.205.
- 5.3.101. In relation paragraph 5.216 as a whole and to the strong expectation in it that impacts on accessibility for non-motorised users should be mitigated, we are satisfied that any worsening of accessibility has been mitigated so far as reasonably possible. We note that none of the three councils has raised concerns on these issues in their LIRs or WRs. We also note the measures to improve bus services to the Main Site, the creation and improvement of cycling facilities (including controlled crossings at Junction 15) and the approval for pedestrian and cycle access to the Main Site across the M1 footbridge from Collingtree evinced by SNC and NBC. We conclude that paragraph 5.216 is also met.
- 5.3.102. We do note that one of the Applicant's conclusions in the Transportation Chapter (at paragraph 12.7.100) is that "*Overall, with regards to impacts on pedestrians, cyclists, equestrians and the community it is concluded that the development proposals would have permanent adverse impact of minor significance on amenity, and a negligible impact on severance and on*

³⁹ The question mark would appear to be a typographical error
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journey length and local travel patterns.” This does not, however, inevitably lead to the conclusion that the tests in the NPSNN in relation to NMUs, accessibility and severance are not met. In our view they are satisfied.

- 5.3.103. The NPPG guidance identified in the Transportation Chapter of the ES appears to have been complied with.
- 5.3.104. We asked questions of the Applicant about compliance with DfT Circular 02/2013. The question – ExQ1.11.22 – and the Applicant’s answer, can be found at [REP1-020]. We are satisfied with that answer. HE has agreed and accepted the Transportation Chapter and TA (see its SoCG Doc 7.1A, [REP1-005]). We record above its confirmation by SoCG [APP-382] that, subject to the satisfactory securing of the highway mitigation measures and the associated mitigation to be delivered by the Travel Plans and Public Transport Strategy, there would be no significant adverse residual transport impacts associated with the Proposed Development. These matters are satisfactorily secured. We are therefore satisfied in relation to Circular 02/2013.
- 5.3.105. In relation to the WNJCS policies referenced above, the topic of climate change is dealt with elsewhere in this report. Objective 2 on social, physical and green infrastructure is also dealt with elsewhere. Objective 3 – connections – relates to use of sustainable travel and the promotion of developments which maximise use of alternative travel modes to combat congestion, reduce carbon emissions and address social exclusion for those without access to a private car. Objective 8 concerns economic advantage and the importance of strengthening and diversifying West Northamptonshire’s economy, bearing in mind its location and the strategic transport network. We are satisfied that Objectives 3 and 8 are met in so far as is practical.
- 5.3.106. The Applicant concluded at paragraph 12.3 64 that the Proposed Development achieves the requirements of those it has listed in the Transportation Chapter. It therefore meets the Government objectives in the NPSNN, national, regional and local transport policies and objectives, and meets relevant policy guidelines and specific requirements in terms of transport. We agree that they are largely met.
- 5.3.107. In relation to the policies to which the Applicant refers in its Planning Statement and which we address above, we note policy C1 of the WNJCS which encourages modal shift. The Proposed Development is consonant with that. It is also consonant with the policies from the NPSNN in that Statement which we address.
- 5.3.108. We referred above to policies identified by NBC and SNC in their LIRs and WRs. We have borne in mind paragraph 5.211 of the NPSNN, which we refer to above, and which requires the ExA and the SoS to give due consideration to policies in local plans. In relation to C2 of the WNJCS, this encourages modal shift away from the private car and C3 seeks to encourage and support Northampton’s strategic connections. The Proposed Development is consonant with those. Given that NBC and SNC did not deploy the policies

they identify in the arguments in their LIRs and WRs on highways issues we conclude there is no conflict.

- 5.3.109. The Proposed Development would secure important improvements to the capacity of Junctions 15 and 15A, and improvements to the A508 corridor sufficient to address its effects and which draw traffic away from local roads and villages. There are to be environmental weight limits and the provision of a new bus service. There is also a travel plan and public transport strategy.

Conclusions on highway transport

- 5.3.110. We conclude that the environmental assessment so far as road transport aspects has been carried out in accordance with the NPSNN. We agree with the Applicant's assessment of the environmental effects at section 12.9 of the Transportation Chapter, namely:
- the effects on the surrounding highway network would not result in any permanent moderate or major significant adverse residual impacts;
 - the construction phase would have temporary adverse impact of moderate significance;
 - the modal shift and resultant reduction in HGV mileage would be a permanent beneficial impact of major significance;
 - the residual effects of the Proposed Development and highway mitigation works would be a permanent beneficial impact of major significance;
 - impacts on pedestrians, cyclists, equestrians and the community would be permanent adverse of minor significance on amenity and negligible on severance, journey length and local travel patterns;
 - impacts on drivers would be permanent beneficial of moderate significance in terms of driver stress, and negligible impact on the view from the road; and
 - cumulative impacts with RC cannot be assessed on current data.

Its conclusions on cumulative impacts with RC have been overtaken by the difficulties we have referred to above, though they were always tentative, and cumulative impact with RC cannot be assessed on the data available to the examination.

- 5.3.111. We are broadly in agreement with the conclusion at paragraph 12.3.65 of the Transportation Chapter that the Proposed Development, so far as highway transport matters are concerned, meets the policies to which the chapter referred. There are benefits in the form of the Roade Bypass and the drawing of traffic away from local roads onto the A508. We have noted a potential breach of paragraph 103 of the NPPF, but as we say above the Applicant is providing a new bus service, and cycling and walking facilities, which arguably offset the question of whether the site is sustainable, and in any case the NPPF is subordinate to the NPSNN.

- 5.3.112. We are also satisfied that the provision for NMUs, and to address severance and accessibility are appropriate and meet the relevant tests in the NPSNN.

- 5.3.113. We have had regard in particular to the positive position of HE and NCC, and to all other submissions, including replies to our first and further questions, Northampton Gateway SRFI TR050006
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and taking into account NCC's letter [REP6-036] of 19 March 2019. If there are any conflicts with policies then, having considered all the evidence, we do not give them very much weight. We are satisfied that, subject to the changes we have proposed within the recommended dDCO, there are no highways transport reasons for refusing to make the DCO.

5.4. RAIL ASPECTS

- 5.4.1. By its very nature the Proposed Development is predicated on being linked to the rail network and being capable of handling rail freight. The application was accompanied by a Rail Reports document [APP-377]. This provides detail on the technical aspects of how the SRFI would function in terms of its internal rail layout and connection to the existing rail network. It also addresses capacity issues of the rail network and how the proposal would relate to this, particularly given the Applicant's aspirational intent that the SRFI would be capable of handling up to 16 trains per day.

The Rail Facility

- 5.4.2. The Rail Reports provide detail of the rail facilities and activities within the Main Site. In summary, the different components are:

- two main line connections linking the SRFI to the West Coast Main Line (WCML) Northampton Loop to the north and south;
- a set of three 775m electrified reception sidings;
- a headshunt and run-round loop to permit shunting moves around the site;
- an intermodal terminal, with three tracks each 775m long;
- rail connections to over 60% of the warehouse plots, to provide either internal or external access for loading and unloading;
- an aggregates facility / terminal with dedicated sidings; and
- the potential for the future provision of a rapid rail freight terminal.

- 5.4.3. The layout for the above is shown on the Illustrative Masterplan [APP-066] which accompanied the application, and in more detail on the Illustrative Rail Terminal Plan [APP-060] and on Railway Plans [APP-061, APP-062, APP-063, APP-064]. A minor change to Works Plan Sheet 1 [REP5-008] and the Parameters Plan [REP5-010] has been made relating to the position of the rail corridor and that for the rail tunnel in respect of the rail connection to the north within the Main Site (discussed below).

The Applicant's Case

Technical capability and capacity

- 5.4.4. Discussions with Network Rail (NR) have been ongoing since 2016. An SoCG with NR notes that technical engagement to GRIP 2⁴⁰ level has included consideration of the main line connections and track layout servicing the intermodal and rapid rail freight terminals, and internal connection to the

⁴⁰ GRIP – Governance for Railway Investment Projects
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rail-connected warehouses [REP1-016]. A GRIP 2 Feasibility Study has been completed.

- 5.4.5. At the request of NR, the Applicant undertook further work to evaluate the speed of connections into and out of the Main Site from the Northampton Loop Line (NLL) of the WCML. This was to confirm that connection speeds to the rail network as proposed would be viable. The work also would have a bearing on NR's assessment of capacity on the network to accommodate the SRFI.
- 5.4.6. A further SoCG with NR [REP5-015] confirms that the appropriate entry / exit speed (40mph) on all reception sidings entering from both the south and the north are achievable in light of the slight realignment of tracks at the northern entry / exit to the Main Site. As noted above, there have been minor amendments to Works Plan Sheet 1 [REP5-008] and to the Parameters Plan [REP5-010] to achieve this.
- 5.4.7. Having regards the original SoCG with NR [REP1-016], reference is made to reports commissioned by the Applicant from Victa Railfreight and GB Railfreight (within the Rail Reports document [APP-377]). GB Railfreight is a freight operating company with extensive operational and practical experience of the UK rail freight sector and of securing and operating freight paths on the rail network. These reports assessed the capacity on the WCML to accommodate the additional freight paths to serve the Proposed Development. NR also reported on capacity in September 2017 on the NLL (Network Rail Loop Capacity Report). To assist its conclusions on capacity NR asked the Applicant to provide further work in respect of capacity.
- 5.4.8. This work included modelling to calculate technical running times of typical freight trains on the NLL in a Freight Timing Report, which was submitted to NR [REP1-016, Appx H]. This demonstrated that at the time of the study (September 2018) four train paths a day could be accommodated at the date of the proposed commencement of operation of the Proposed Development. However, NR indicated that this was subject to two caveats. The first related to the entry / exit speed to the SRFI, which has now been confirmed (as referred to above). Secondly, confirmation of capacity would be dependent on knowledge of the origin and destination of each train movement. This information would not be known until the SRFI was operational and therefore whether a path from the SRFI could be matched to a path at the origin / destination.
- 5.4.9. Paragraph 32 of the SoCG states:
- "As regards network capacity, subject to being satisfied in relation to connection speeds and noting that paths cannot be matched to paths at the origin/destination until the SRFI is operational, based on the assumption made in the Network Rail Northampton Loop Capacity Report September 2017 and the GB Railfreight report Network Rail believes that the facilities being planned have the capability and capacity to support efficient terminal operations for 4 paths/day...."*

- 5.4.10. Within the Rail Reports [APP-377], that by Victra Railfreight provides train movement forecasts for the Proposed Development up to NR's long-term planning horizon (currently 2043). This suggests that the rail traffic generated would be relatively modest up to 2026⁴¹ in line with start-up and development of the site, with three trains to and from the south and one (aggregates) service⁴² to and from the north every day. In the longer-term a total of 16 intermodal and / or bulk freight train pairs is suggested would serve the site every 24 hours (Monday – Friday); 10 operating between London and the SRFI and six running north via Rugby and being split 50% running during the day and 50% during the night.
- 5.4.11. The Victra Railfreight report, having analysed capacity on the WCML, concludes that it should theoretically be possible to run at least 50 additional freight services per 24-hour period on the WCML south of Rugby. This would treble current normal daily path utilisation without requiring material infrastructure upgrades between London and the Proposed Development. The Victra Railfreight report suggests that the capacity requirement to run the aspirational 16 trains per day could be met within the existing WCML freight capacity, with the opening of HS2 releasing further such capacity.
- 5.4.12. The GB Railfreight report into capacity assessed available capacity on the WCML, path utilisation and engineering access. It concludes that there are many available freight paths to cater for both intermodal and bulk services that would access the Proposed Development from both the north and south⁴³.
- 5.4.13. The SoCG with NR [REP1-016] notes at paragraph 33 that:
- "Network Rail continues to work with the rail freight industry and the Department for Transport, in developing the rail network for both freight and passenger operators. DfT's strategic investment programmes are geared to making the best use of available capacity. The opening of HS2 Phase 1 in 2026 and Phase 2 in 2033 provide opportunities to review the use of capacity on the classic network for both freight and passenger traffic. The extent to which this will release additional capacity is uncertain and the SRFI does not rely on such capacity being released, however, some of the additional long-term capacity growth can be expected to be provided by these developments."*
- 5.4.14. Whilst NR has stated that it is not able to confirm capacity as a result of the remaining caveat referred to above, and whilst it has not commented on the

⁴¹ The projected opening date of HS2, which it is suggested would free up capacity on the WCML. DoT currently estimate that this would result in being able to create between 20 and 40 new freight paths per day above those offered by the current working timetable [APP-377, para 11.8]

⁴² This would replace the current terminal at Northampton Castle, adjacent to the station

⁴³ From 06.00 to 00.00 (Monday-Friday) there are at least 22 paths available for new freight flows as at the December 2017 timetable and at least 36 paths available from 01.00 to 06.00

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accompanying Rail Reports in respect of capacity, the Applicant notes NR has not sought to take issue with them.

- 5.4.15. Warwickshire County Council is promoting a new station at Rugby (Rugby Parkway) on the NLL. In a SoCG with the Council [REP1-013] it is acknowledged that the potential growth in rail freight is likely to require some amendment to existing passenger train services, but that work done by the County Council indicates that calls at the station could be accommodated without significant impact on passenger or freight services. Having regards the conclusions of the Rail Reports [APP-377], the SoCG considers the Proposed Development would not negatively impact on the proposals for Rugby Parkway.

Planning Issues

- 5.4.16. Concerns have been expressed as to the capacity of the rail system to cater for the projected use by the Proposed Development. These are articulated in the WR of SRNG [REP1-054, pp 30 - 37] and Andrew Bodman [REP1-063, pp 34 - 46]. They are echoed in the WR of the local MP, the Rt Hon Andrea Leadsom [REP1-087]. These concerns are particularly in light of views that: the WCML is already operating at near capacity; the expectations that the expansion of DIRFT will increase freight usage; and that there will be greater use by passenger services from Northampton to London, and anticipated services to be run by East West Rail, which would join the WCML at Bletchley when it is due to become operational in 2024. It is suggested that an additional 84 train paths each way would be required to cater for the projected increased Northampton rail passenger demand, that from East West Rail and freight operations from DIRFT III.
- 5.4.17. Mr Bodman notes that the opening of HS2 in 2026 would release of some additional train paths. However, this would be of little help for freight movement as it would not release train paths on the North London Line. This is an existing bottleneck through which freight trains access the WCML at its southern end on the way from Felixstowe where almost half of its freight services are routed, and London docks including London Gateway [REP1-063, pp 34 - 46].
- 5.4.18. Rail infrastructure improvements are needed on the WCML and should be delivered before additional freight paths are provided. However, appropriate improvements to infrastructure do not appear to have been scheduled.
- 5.4.19. The above concerns are also echoed in the WR of Blisworth Parish Council, which makes similar references to capacity constraints and potential impact on passenger services from competing freight use demands [REP1-079, pp 39 - 44]. The Parish Council summarises the position on the WCML as having a higher intensity of operation than comparable major fast lines in other European countries, being a highly constrained corridor operating close to capacity in the peak and that it would be challenging to increase service

levels still further⁴⁴. Available freight paths on the WCML are finite and their allocation is, and will be, subject to considerable competition from competing users. DIRFT, the Proposed Development, that for Rail Central and West Midlands Interchange all look to directly access the WCML. The East Midlands Gateway, East Midlands Intermodal Park and the potential Hinckley SRFI proposal would all compete for paths with existing users [REP1-079, p43].

- 5.4.20. The Parish Council notes that if the Office of Road and Rail was to grant requested extra freight paths this could be at the expense of additional passenger trains in the future and would be highly likely to be objected to by passenger Train Operating Companies [REP1-079, p41]. It also refers to MDS Transmodal, the company responsible for the unconstrained rail freight forecasts used by the Government. The Council refers to MDS Transmodal's view that, without the investment in the strategic rail network, the amount of warehousing that could effectively be served within current capacity constraints is roughly limited to that to be built at DIRFT III and is at odds with the Applicant's assessment of multiple theoretical paths being available. NPSNN paragraph 4.8 states that SRFIs need to take account of corresponding investment in the rail network, of which there is none committed to on the WCML [REP4-017].
- 5.4.21. NCC, in its LIR [REP1-036], notes that Northampton has long suffered from not being located on the main WCML, with rail services from Northampton to London remaining slower than from places of equivalent size located further away, but served by faster services. It considers improved rail connections to London, Birmingham and other large cities are vital to Northampton's growth and economic prosperity. The Local Transport Plan therefore supports a step change in rail services provided for the town.
- 5.4.22. NCC's WR [REP1-035] points to NR's Freight Network Study of April 2017 which identifies an expected increase in freight paths on the WCML following the opening of HS2. This refers to option schemes for reducing headways⁴⁵ on the NLL to accommodate additional passenger and freight traffic and the remodelling of Northampton Station to allow freight services to pass at higher speed and reduce speed differential between passenger and freight services. The Council suggests that the inclusion of these option schemes would seem to confirm that NR considers there to be capacity constraints on the NLL. The WR goes on to state that it appears clear that in the short-term (and subject to confirmation by NR) there are spare freight paths available for use by additional services. However, NCC considers that there has been

⁴⁴ The Parish Council's summary of the DfT Supplement to the October 2013 Strategic Case for HS2 Technical Annex; Demand and Capacity pressures on the West Coast Main Line. The Council further sets out the reasons for the constraints referred to in this document: a) physical constraints with the infrastructure, such as flat junctions, two-track sections and bottlenecks at station approaches; and b) the complex mix of inter-city, commuter, local and freight traffic that operates on the rail corridor, with trains having varying speeds and stopping patterns [REP7-013].

⁴⁵ Headway is the required timing gap that must be maintained between successive trains at any timing point

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no demonstration that the paths could be used to serve the Proposed Development without conflict to other services.

- 5.4.23. NBC's LIR [REP1-089] similarly notes that the Borough Council is concerned to ensure additional freight traffic on the NLL does not impact adversely on the availability of train paths for passenger trains. The Council has expressed support for East – West Rail to be extended to Northampton. This would be to facilitate further economic growth in the Borough and increase its contribution to the Government's ambitious targets for housing and employment growth in the Oxford – Cambridge Corridor. The Council supports the submission of a Growth Deal for West Northampton, which would include a significant uplift in housing provision over the period 2019 to 2050. However, the Victra Railfreight report does not include assumptions for either of these potential additions to passenger services.
- 5.4.24. The Northampton Rail Users Group (NRUG) reflects the views expressed above in respect of adverse impact on rail passenger services. It refers to an identified market growth for Northampton passenger traffic by 2023 of 32% and by 106% by 2043, which would bring the WCML back to its current capacity constraints within 25 years, even with freed-up capacity as a result of HS2 [RR-175]. The Proposed Development is in an unsuitable location, set between two critical capacity pinch points of the North London Line and Northampton Station [AS-076]. Modifications would be needed at Northampton Station to reduce headways on the NLL and to allow higher line speeds. This is impractical following the building of the new station, which opened in 2015, and costs as set out in the Network Rail Freight Study of April 2017 which would be up to £550m [REP1-092]. None of the mitigation measures appear to be included in NR's budgeting rounds.
- 5.4.25. NRUG suggests that loading the NLL with freight would work against the interests of rail for Northampton. In the shorter term this is due to lack of capacity, causing competition between freight and passenger services and disruption in construction. In the longer term there would be adverse interference with potential new services post-HS2 and the economic benefits for connecting Northampton to the HS2 hub at Birmingham. There is existing freight interference at Northampton with delays to passenger services caused by track layout, with no identified suggestions as to how to alter signalling or points work to overcome this [REP1-092].
- 5.4.26. NRUG criticises various aspects of the Applicant's Rail Capacity Report [AS-073] including either the misunderstanding or the misquoting of the number of night-time train services, which affects the proposition for rail capacity out of peak. It is also suggested that misleading journey times are presented in an attempt to establish that there would be no interference with passenger services [REP1-092]. NRUG has suggested that if the Proposed Development was to be consented a requirement should be included that would provide reassurance that there would be no adverse effect on passenger services. [AS-073]. This would seek to prevent, amongst other matters, the granting of paths for freight that would otherwise limit the provision of paths for passenger services or cause slower running or line speeds of passenger services.

- 5.4.27. In its RR [RR-666], Rugby Rail Users Group also expressed concern about potential detrimental effects on passenger services and objected to the Proposed Development on this basis. However, this was not elaborated upon in any further submission or participation in the Examination.
- 5.4.28. It is further suggested that analysis of the project is not sufficiently advanced in terms of the GRIP process, which should have been to GRIP 4 rather than to GRIP 2 [REP4-022]. If a developer has not reached GRIP 4 this could represent a greater risk approach as it could complicate the ExA's ability to assess the potential impacts of the scheme.
- 5.4.29. SRNG suggests that the train paths used by the aggregates facility / terminal operator based in Northampton, and which it is proposed to be moved to the Proposed Development, should not be counted towards the minimum requirement of being able to handle four freight trains per day. This would simply be a transfer whereas SRFIs should bring about modal shift from road to rail; train paths being transferred would not represent such a shift [REP1-054]. This is also echoed by Mrs Leadsom MP in her WR [REP1-087].

Cumulative impacts

- 5.4.30. Within the Examination consideration was given to the potential cumulative impacts of the Proposed Development and the neighbouring RC scheme. A signed tripartite SoCG between the Applicant, RC and NR [REP5-016] sets out respective positions regarding the technical and operational compatibility of the two proposed SRFIs existing together. Within the SoCG it is noted that RC has carried out some technical assessment which indicates that an appropriate design solution is possible that would allow both schemes to achieve main line connections, However, at the time of the Examination, and at ISH4 when this was discussed, NR had only assessed the feasibility of the technical design of the SRFI proposals separately, with no work done to consider the technical compatibility of the two schemes together.
- 5.4.31. For NR to provide an opinion as to whether the two schemes would be compatible from a technical design point of view, it would need to undertake a full feasibility study to assess the combined effects of the two schemes. This would have to be pursuant to a contract with one or both applicants.
- 5.4.32. At ISH4, RC noted that in terms of the capacity of the rail network (ie timetable) to accommodate both projects, a number of timetable assessments had been collectively produced by RC and the Applicant. The collective view of the studies was that sufficient capacity exists to enable both SRFIs to achieve the threshold of four goods trains per day in and four goods trains per day out of each site. This was taking account of both schemes sharing access to capacity on the WCML slow lines / NLL, and RC additionally having direct access to capacity on the WCML fast lines [REP6-018].
- 5.4.33. In terms of operational compatibility of the two schemes, NR's position was the same as in respect of technical compatibility; it had not received relevant information or funding to enable it to undertake any work to assess capacity of the network to accommodate both schemes. It was not therefore able to

confirm RC's view set out within its WR [REP1-029] that, having regards work undertaken to date, there were no identified constraints which would otherwise prevent both SRFIs and that at DIRFT from being able to operate satisfactorily in a way required by the NPSNN.

- 5.4.34. Notwithstanding the above, the Applicant and RC have agreed the wording of a requirement (Req 32) of the dDCO relating to the compatibility of rail connections between the two SRFI proposals. The context for the requirement is the scenario where both RC and the Applicant's DCOs are granted and the SoS has therefore determined it is in the public interest for both the to come forward.
- 5.4.35. The intention behind the requirement is to ensure that the construction of Northampton Gateway in advance of RC does not frustrate the delivery of the latter. NR's interests would be separately protected by protective provisions within Part 1 of Schedule 13 of the dDCO and NR would have to approve the details pursuant to the provisions of that schedule. Network Rail has confirmed to the ExA that it is content with Req 32 [REP6-012]. The appropriateness of the suggested condition is considered further in Chapter 11 below in relation to the dDCO.

The ExA's Considerations

- 5.4.36. The ability to create connections to the NLL from the Proposed Development is established even though this has only been to GRIP level 2 (out of a total of eight levels). It has been suggested that, given the complexities of potentially two SRFIs joining the rail network close together, analysis at this stage should have been to GRIP 4 to provide a higher degree of certainty as to feasibility. However, the ExA accepts that GRIP 2 is an appropriate level to have been reached, as the SoCG with NR confirms, and as further confirmed by NR at ISH4 [EV-028]. GRIP 2 represents the feasibility stage and is intended to prove feasibility of technical and operational facility. At ISH2 the Applicant confirmed that no SRFI which has been consented had reached beyond GRIP 2 at the time of approval [REP4-011].
- 5.4.37. From the evidence provided we have no reason to believe that from a technical compatibility point of view the Proposed Development, as a stand-alone entity, would not be capable of being appropriately connected to the rail network via its direct access from the NLL.
- 5.4.38. Furthermore, we have carefully considered the policy within the NPSNN in respect of the need for an SRFI to have an operational rail network connection and areas for intermodal handling and container storage in the initial stages of development (para 4.88). We discuss the mechanics of ensuring this in Chapter 11 of this Report. However, in summary we consider that Req 3(3) of the recommended dDCO provides the assurance that a rail terminal capable of handling four trains a day as a minimum would be constructed and available for use prior to the occupation of any warehousing. If there were to be any doubt as to the technical capability of doing this then the development would not be able to proceed.

- 5.4.39. The Applicant places reliance upon and stands by the assessment of capacity on the rail network as set out in its Rail Reports. The reports produced on capacity are by firms operating within the freight sector and should be assumed to be of a competent standard on which a high degree of reliance can be placed. Notwithstanding, the criticisms of NRUG above suggesting that certain elements of likely future growth in use have not been fully taken into account are noted. It is clear that there are likely to be many future demands on capacity on the WCML from competing uses both in terms of freight and passenger services. We consider that concerns about the projected, as well as aspirational, needs and demands for Northampton passenger services, are important and relevant considerations.
- 5.4.40. The development of the proposed SRFI to full utilisation is a long-term projection to 2033. The ExA presumes that rail freight use would grow according to the build-out and subsequent use of the various facilities to be included. The need for freight paths on the rail system would be likely to increase therefore as the Proposed Development progressed. The Rail Reports document notes that it is likely that traffic will build over time matched by the expected increase in the WCML freight capacity provided by HS2. The SoCG with NR notes that the extent to which HS2 would release capacity is uncertain, although the Proposed Development does not rely on the release of such capacity [REP1-016].
- 5.4.41. It is a prerequisite within the NPSNN that the facility should be capable of handling four trains per day as a minimum. NR has confirmed in its SoCG [REP1-016] that there is capacity on the NLL for four train paths per day at the start of operation, subject to the extant caveat that the origin and destination of each train movement would need to be known. The Applicant makes the point that this caveat is not capable of being satisfied at this stage since it is entirely dependent upon the occupants of the development and their particular operations; no SRFI could satisfy this caveat prior to it being occupied [REP4-011]. We consider this to be a valid argument.
- 5.4.42. We questioned NR on what degree of confidence it has that there would be sufficient network capacity to accommodate additional train paths (ExQ 2.9.3 [PD-010]). This was in light of the well-articulated concerns relating to not only the NLL but also the wider network capacity on the WCML and routes around north London [REP1-054, REP1-063, REP2-013, REP6-020]. In response [REP5-037], NR noted that there may be more than four paths available. However, the number would depend on variables such as the timetable operating at the time, engineering works taking place, whether paths could be matched to origin / destination, as well as variables driven by the commercial market. This means that the rail system is always fluid.
- 5.4.43. Appendix 1 to the SoCG with NR is an explanation of the process of the identification and allocation of capacity on the rail network [REP1-016]. In this it is acknowledged that the ability to accommodate growth would depend on the nature, speed and length of traffic flow. It may be possible to get a path to and from a site near Northampton but not be possible to find a matching path to a port such as Felixstowe or Southampton for a service to run profitably. Nevertheless, the Appendix indicates that the allocation of freight paths is an iterative process, with a requirement that timetables be

changed twice a year. This is when NR can look at the complete set of passenger and freight requirements and adjust train paths to try and accommodate all requests.

- 5.4.44. It is NR that makes the decisions about which mix of services are entered into any timetable. Its objective, which is defined in the Network Code⁴⁶, is to share capacity on the network for the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of railway services. When compiling a timetable NR must assess all operators' requirements together and not look at freight services after passenger services or vice versa. Within the Appendix it is noted that there has not been a situation whereby a new freight facility has been unable to operate due to a lack of train paths. Further, *"if paths cannot be accommodated, then a route can be deemed to be congested and Network Rail works to produce a plan to de-congest the route. The West Coast Main Line is not currently deemed to be congested"* [REP1-016].
- 5.4.45. We consider that the absence of a situation whereby a new freight facility has been unable to operate because of lack of train paths does not equate with a facility being able to operate to its full aspirational extent, in the present case 16 trains per day. It is our view that, from the evidence presented, there must be some degree of uncertainty as to whether the full aspirational level of freight use could be achieved against the background of competing uses on the WCML.
- 5.4.46. NR indicates that the system of allocation of train paths is not one that allows the prediction of what paths might be available in 10 – 15 years' time. There is also acknowledged uncertainty as to what capacity might be released by HS2. However, there is a commitment by NR to facilitate additional rail freight in line with the NPSNN. We therefore consider that it is a reasonable assumption that future investment to ensure capacity would be aligned in furtherance of this.
- 5.4.47. NR is required to have regard to the needs of all rail users. It recognises that the intermodal market is one of the key sectors that is driving rail freight growth and the desired modal shift from road to rail. In the Freight & National Passenger Operators' Route Strategic Plan (2018), NR addresses the interests of all rail users and indicates its programme to accommodate them. The plan sets out the first stage of a longer-term vision to facilitate rail growth over the next fifteen years. In respect of the WCML the plan includes a commitment to facilitate new terminal developments including at Northampton [REP1-016]. NR noted at ISH4 that if additional freight paths were granted this would not be taking away the opportunity to run additional passenger services in the future [EV-028].
- 5.4.48. NRUG's suggested inclusion of a requirement within the dDCO to safeguard passenger services is opposed by the Applicant. It proposes that such a

46 The Network Code is derived from the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 [REP6-014 pp28 -29]
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requirement would be against the Network Code and would also be contrary to the impartiality that NR should exercise in the allocation of capacity in the light of competing bids [REP6-014, pp 28 - 29]. We agree with this view. We also consider it would be an inappropriate attempt to restrict the way in which the rail network is used.

- 5.4.49. Having regards to the counting of train paths that would be used by the aggregates facility / terminal operator, the Rail Reports assessment of available paths takes into account all existing paths on the network. These include those used by GRS Roadstone at the existing Northampton terminal. The availability of freight paths is therefore in addition to these existing paths [REP7-007]. The movement of the present aggregates business to the SRFI would itself have a number of benefits which are detailed in section 7.1 of Chapter 7.
- 5.4.50. So far as cumulative impact with the RC scheme is concerned, at the time of the Examination, because it had not been contracted to do so, NR had not undertaken an assessment of either the operational compatibility of the two SRFIs operating together or the capacity of the network to accommodate both.
- 5.4.51. The RC Examination is not now due to start until December 2019. We therefore consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and in light of evidence and circumstances pertaining at that time.

Conclusions on Rail Transport

- 5.4.52. Having carefully considered the evidence provided the ExA concludes that:
- although no absolute certainty can be provided, it is in the balance of probabilities feasible that the Proposed Development could be connected to the rail network and be capable of being served by four trains per day, in accordance with the NPSNN; and
 - the ability for rail freight traffic to grow and for the SRFI to be served by an aspirational 16 trains per day is more uncertain. This is because of likely constraints and competition on the network and the unknowns as to how the network could accommodate growth several years hence. That said, this has to be seen against the background of the Government's belief as set out in paragraph 2.53 of the NPSNN that it is important to facilitate the development of the intermodal rail freight industry as part of its vision for transport in a low carbon sustainable system that is the engine for economic growth. It also should be seen against the commitment to facilitate rail growth over the coming years. This uncertainty must therefore feed into the balance when weighing the suggested overall benefits of the Proposed Development as a project aimed at promoting transmodal freight movement.

6. AIR QUALITY

6.1. INTRODUCTION

- 6.1.1. The topic of air quality attracted considerable attention in the Examination. In our view the main issues on air quality were the Air Quality Directive (AQD) (Council Directive 2008/50/EU) and the effects on AQMAs. Other important issues raised in WRs, LIRs or our own questions were PM_{2.5s}, the effects on Collingtree, effects on the village of Roade and cumulative effects with Rail Central. More general concerns about air quality were voiced by a number of IPs.
- 6.1.2. For clarity, references to the ES Air Quality Chapter in this chapter of the Report are to the corrected version to be found at [REP5-021] page 119.

6.2. POLICY CONSIDERATIONS

- 6.2.1. The air quality heading of the NPSNN runs from paragraphs 5.3 to 5.15 and after introductory material paragraphs 5.7 to 5.15 set out the policies.
- 6.2.2. The NPPF; as outlined above, this was reissued after the submission of the application. We proceed in this chapter using the text and paragraph numbers of the original NPPF as set out in the Air Quality Chapter. The NPPF is in our view an important and relevant matter.
- 6.2.3. The NPPF states that planning is *"to contribute to conserving and enhancing the environment and to reduce pollution"*. Paragraph 109 states: *"The planning system should contribute to and enhance the natural and local environment by: [...] preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability [...]"*.
- 6.2.4. On the question of assessing cumulative effects the NPPF says at paragraph 120: *"To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or Proposed Development to adverse effects from pollution, should be taken into account"*.
- 6.2.5. The Planning Practice Guidance gives guidance on the relevance of air quality to a planning decision. Factors include current air quality of the area if poor; adverse impact on air quality strategies and in particular whether the development would lead to a breach of EU legislation (including that applicable to wildlife); potential for significant effects on traffic in the immediate vicinity of the proposal or further afield by generating or increasing traffic congestion; significantly changing traffic volumes, speed or both; or significantly altering the traffic composition on local roads; construction HGV flows for a period of a year or more; dust during construction for nearby sensitive locations and effects on biodiversity, especially deposition or concentration of pollutants that significantly affect a

European-designated wildlife site and is not directly connected with or necessary to the management of the site.

- 6.2.6. The UK Air Quality Strategy; the Air Quality Strategy for England, Scotland, Wales and Northern Ireland (DEFRA 2007) is summarised by the Applicant at paragraphs 9.2.15 - 19 of the Air Quality Chapter together with their implementation through the Air Quality (England) Regulations 2000 and Air Quality (England) (Amendment) Regulations 2002 and the designation of Air Quality Management Areas under the Environment Act 1995. The Applicant notes the establishment of a number of AQMAs in the NBC area and one AQMA in the SNC area.
- 6.2.7. The UK plan for tackling roadside nitrogen dioxide (NO₂) concentrations (DEFRA 2017) is described at paragraph 9.2.20 of the Air Quality Chapter together with key relevant points identified by the Applicant who draws attention to references to new funding to relieve road congestion. The UK plan also required identified local authorities to set out plans for delivering cleaner air in the shortest time possible.
- 6.2.8. In terms of local planning policies, the WNJCS contains the following relevant policies:
- *"Policy BN9 – Planning for pollution control [...]"*
 - *Development that is likely to cause pollution, either individually or cumulatively, will only be permitted if measures can be implemented to minimise pollution to a level which provides a high standard of protection for health and environmental quality."*; and
 - *"Policy S10 Sustainable Development Principles [...]"*
 - *Development will [...]*
 - *Minimise pollution from noise, air and run off."*
- 6.2.9. The following saved policies from the South Northamptonshire Local Plan 1997 are relevant. Policy G3 states that permission will normally be granted where the development:
- *"Will not unacceptably harm the amenities of any neighbouring properties;*
 - *Is neither of a hazardous nature nor likely to cause problems of pollution, noise, vibration, smell, smoke, discharge or fumes"*
- 6.2.10. The Northampton Low Emissions Strategy, which is a document prepared under the Environment Act 1995, is aimed at helping the planning authority to deliver air quality objectives in line with local plan policies. It contains the following relevant policies:
- *"14 Theme 3 – Reducing Vehicle Emissions: Commercial Vehicles & Freight [...];"*
 - *14.1 Northamptonshire is a prime location for the distribution of goods – many distribution centres and logistics operators are located within the region, with the freight & logistics sector being a major contributor to the region's economy. Road freight is the most used mode for freight movements in Northampton."*

- *Heavy and light goods vehicles are a significant contributor to elevated pollution concentrations in the urban centre and along arterial routes. [...]*
- *14.2 Freight and commercial activity is potentially one of the most difficult for the Borough to directly influence, given that decisions in relation to the procurement of fleet vehicles is entirely a commercial decision. However, commercial organisations are required to report on CO2 emissions and are encouraged to reduce their emissions, and from this we will seek to support from commercial operators to reduce transport emissions.*
- *14.3 Examples of what can be done include:*
 - *Seeking opportunities to increase the take-up of alternative fuels and technologies by HGV and LGV operators, for example natural and bio gas refuelling stations could be supported at key locations near to the strategic road network (possibly in conjunction with bus operators).*
 - *Working with commercial fleet operators to use whole-life costing during vehicle procurement to promote the economic as well as environmental and health benefits from low emission HGVs and LGVs.*
 - *Using the Northampton Air Quality & Planning Technical Guide (see Theme 2 – Creating a Low Emission Future) to ensure that new commercial developments incorporate facilities for low emissions vehicles, such as electric charging points and minimum Euro emission standards for fleet vehicles.*
 - *Encourage more freight to be transported by rail for long-haul journeys.*
 - *Using sustainable procurement criteria to reward those businesses which have a lesser impact on the environment.*
 - *Minimising emissions in urban areas from HGVs and LGVs – the so-called “last mile” of deliveries – for example through the use of freight consolidation centres and consideration of Low Emission Service Delivery Plans.”*

6.2.11. Lastly, the Northamptonshire Transportation Plan (NCC 2012) sets out overarching strategic aims for transportation in Northamptonshire. Strategic policy 22 focuses on how the impact of transport can be reduced:

- *“Strategic Policy 22 [...]*
- *We will seek to reduce the impact that motor vehicles have on the local environment in Northamptonshire by minimising the effects of severance, noise and the emissions from transport.*
- *This Strategy will lead to a number of transport related proposals and all of these projects will be subjected to Environmental Impact Assessment where appropriate. However, this strategy sets out the following principles that will guide future developments:*
 - *There should be a net gain in biodiversity value – there is also an opportunity to contribute towards biodiversity goals set out in the Northamptonshire Arc policy document; [...]*
 - *Design of new infrastructure and maintenance of existing infrastructure should protect and enhance the natural environment [...]*
 - *Any proposals that would significantly harm a European site would not be supported by the Strategy. [...]*
 - *All new development should be ‘air quality neutral’.”*

- 6.2.12. ExQ1.1.3 asked the Applicant, NBC and SNC to comment on the implications of the Client Earth litigation. This is relevant as the UK was held to be in breach of its obligations under the Air Quality Directive. The Applicant replied [REP1-021] explaining amongst other points that *"Subsequently Defra produced the UK Air Quality Plan (2015 and revised in 2017) to deliver compliance across all of the UK. However, ClientEarth returned to the High Court in February 2018 to challenge the UK Government (Secretary of State for Environment, Food and Rural Affairs (SSEFRA)) urgency in delivering the UK Air Quality Plan. The High Court ruled in favour of ClientEarth and has required the SSEFRA to accelerate the adoption of air quality plans and Clean Air Zones (CAZs). This was set-out in an update of UK Air Quality Plan (2018)".*
- 6.2.13. NBC replied on the litigation at [REP1-121] and its reply included the following statement of the effect on action from NBC: *"The High Court ruling did not change the Government's Plans in relation to NO₂ concentrations in Northampton. No additional measures are required. NBC is not required to undertake a Clean Air Zone (CAZ) Feasibility Study and no additional funding has been granted by Defra / Joint Air Quality Team towards meeting AQO / Limit Values for NO₂ in Northampton."*
- 6.2.14. The reply included other comments about the National Air Quality Action Plan particularly in relation to the date for meeting the national Air Quality Objectives/EU Limit Value for NO₂ (2018) and the fleet emission projections (which NBC says are optimistic) all of which we have taken into account.
- 6.2.15. SNC did not reply to ExQ1.1.3.
- 6.2.16. ExQ2.1.34 asked the same parties to comment on: (a) the case of *R. (oao Shirley) v. Secretary of State for Housing, Communities and Local Government [2019] EWCA Civ 22* concerning the SoS's duty to give effect to the objectives of the Air Quality Directive; (b) the "Clean Air Strategy 2019", published by the Government on 14 January 2019; and (c) the publication on 5 October 2018 by the Government of a Supplement to the UK plan for tackling roadside nitrogen dioxide concentrations. These were developments during the course of the examination. The Applicant gave a full reply [REP5-021]:

"Regarding the Court of Appeal case of R on the Application of Shirley & Anr v Secretary of State for Housing Communities and Local Government & Anr [2019] EWCA Civ 22. In para. 33 of the Judgement Lord Justice Lindblom considered a breach of Article 13 and states:

"...A demonstrable breach of article 13 does not generate some unspecified obligation beyond the preparation and implementation of an air quality plan that complies with article 23. The case law does not suggest, for example, that in such circumstances a Member State must ensure that land use planning powers and duties are exercised in a particular way – such as by imposing a moratorium on grants of planning permission for particular forms of development, or for development of a particular scale, whose effect might be to perpetuate or increase exceedances of limit values, or by ensuring that decisions on such proposals are taken only at ministerial level."

Moreover, in para 40 Lord Justice Lindblom continues:

"...None of the provisions of the Air Quality Directive engages with the process of making decisions to authorize individual projects of development. If a proposed development would cause a limit value to be breached, or delay the remediation of such a breach, or worsen air quality in a particular area, neither the Air Quality Directive nor the 2010 regulations states that planning permission must be withheld or granted only subject to particular conditions. These may of course be material considerations when an application or appeal is decided, and so too the measures in an air quality plan for the relevant zone, if there is one, or in an action plan prepared under the Environment Act 1995. But the Air Quality Directive and the 2010 regulations do not, in those or any other circumstances, compel the decision-maker to refuse planning permission, or impose on the Secretary of State an obligation to make the decision himself."

The proposed development would not significantly increase non-compliance with the Limit Values. Air quality effects should not, therefore, be determinative in any decision.

The UK Clear Air Strategy (CAS) focuses mainly on non-road sources and not on the planning of proposed developments. The CAS seeks to improve air quality through strategic measures; some measures will influence the uptake of low emission vehicles and encourage local authorities to implement CAZs and, as proposed by Northampton BC, a Low Emission Strategy. The types of vehicles visiting, commuting, bus-ing-in and using the proposed development will therefore likely to be cleaner/low emission vehicles as a result of these strategic measures, thus supporting the general aims of the CAS to improve air quality.

The National Plan (update) will also influence reductions in emissions, close to the CAZ cities, and will also influence any vehicles travelling through them. As above, the development will therefore likely have cleaner/low emissions vehicles travelling through CAZs and so these cleaner vehicles will also benefit air quality locally as well.

At the strategic (national) level, the Proposed Development will make a direct contribution towards improving national air quality by enabling the shift of freight from road to rail. As set out in the submitted application (at paragraph 9.9.4) and in the Transport Assessment (paras 5.4 to 5.10), overall the Proposed Development could lead to nationwide HGV load reductions equivalent to 92 million fewer HGV miles per year based on a worked example of realistic changes to existing distribution patterns."

6.2.17. NBC replied fully [REP5-040], confirming:

"The publication of the Governments (sic) Clean Air Strategy (CAS) doesn't have any material impact on the consideration of the air quality effects arising from the scheme. The focus of the CAS is to address fine particulate concentrations to improve public health outcomes. The CAS does not include any targets that are relevant to the consideration of the development application.

The October 2018 update of the Government's UK plan for tackling roadside nitrogen dioxide concentrations follows a further judgement in the court cases taken by Client Earth. Some authorities in Table K of the plan are now required to undertake Clean Air Zone (CAZ) feasibility studies and produce air quality plans to improve air quality (NO₂) in the shortest possible time.

While Northampton was in Table K, the Government has said that Northampton does not have a persistent air quality problem and does not require a CAZ feasibility assessment as it is expected to meet the Air Quality Objective / EU Limit Value within the required EU compliance timeframes."

6.2.18. SNC did not reply to ExQ2.1.34.

6.2.19. This has been set out in full as it explains the changes which have happened since the Application was made and the extent to which they are relevant. In short, we think that NBC's summary which we quote above is a fair summary of the position. We also accept its summary of the position on the publication on 14 January 2019 of the Clean Air Strategy 2019; and on 5 October 2018 of the 'Supplement to the UK plan for tackling roadside nitrogen dioxide concentrations' though we also note the Applicant's comment on these at [REP5-021] quoted above.

6.2.20. The Shirley case shows there is no duty to ensure that land use planning powers and duties are exercised in a particular way – such as by imposing a moratorium on grants of planning permission for particular forms of development, or for development of a particular scale, whose effect might be to perpetuate or increase exceedances of limit values. Lord Justice Lindblom did recognise that such matters might be material considerations but there is no compulsion to act in a particular way. The NPSNN, which contains policies on compliance with EU limit values, has not been changed in the light of Shirley.

6.3. THE APPLICANT'S CASE

6.3.1. In brief, the Applicant's case is that NO₂ and PM₁₀ effects of construction vehicles would be negligible. Dust effects of construction at the Main Site, and the M1 and A45 improvements would range from negligible for demolition, through medium for earthworks and construction to high from trackout. The risk of PM₁₀ exceedances is considered to be low. Dust effects from the construction of the Roade Bypass and A508 improvements cover the same range for the same sources. Again, PM₁₀ risks are low.

6.3.2. In relation to the other highway improvement measures (the Junction 15A improvements and improvements at two sites on the A508) these would be minor improvements with small dust emission magnitude and, being located in rural areas away from large population centres, their sensitivity was considered to be low. The risks for both dust soiling and PM₁₀ are considered to be low and negligible respectively. The risks of intra-development cumulative dust effects from construction were considered to be negligible. The effects for all the construction sectors would be mitigated by the P-CEMPs and, in addition, in the case of the Main Site, by Priority Dust Management Zones.

- 6.3.3. In relation to the operational phase, looking first at PM₁₀, there would be negligible effects in all of the twelve study areas in 2021, the interim period and 2031. For NO₂, all areas would have negligible impacts, except for one which would experience a slight adverse impact in 2021 and the interim period and two areas, one of which would experience a slight beneficial impact in 2021 and the other slight beneficial impact in the interim and in 2031. National scale impacts would be a saving of slightly over 92 million HGV miles, removing 100 Average Annual Daily Traffic (AADT) movements in or adjacent to at least 57 AQMAs, though that would be only a negligible impact as it is only a small fraction of total AADT flows. On the basis that the development is built out by 2031 and that 16 trains per day are in use by then, the Applicant estimates a reduction of NO₂ emissions of 469 tonnes and PM₁₀ of 122.9 tonnes. The value of this is put at between £9.5 million and £24 million.
- 6.3.4. In terms of the National Plan objectives and EU emission limits the scheme is located within a zone that is currently non-compliant (East Midlands zone). The scheme was assessed, and it does not cause a continuance of non-compliance nor delay the future compliance of the zone within the most recent timescales reported to the European Commission. It also does not cause a currently compliant zone / agglomeration to become non-compliant.
- 6.3.5. The methodology for the air quality aspects of the ES was agreed with NBC (SoCG [REP1-014]). Although NBC is not one of the planning authorities for the area in which the bulk of the Proposed Development is situated, it has a number of AQMAs in its area. It is more urbanised than the area of SNC. It seems to us that this was an appropriate choice.
- 6.3.6. The aspects of the Proposed Development giving rise to air quality effects were divided into construction and operation. In both aspects the relevant sources were identified as dust and vehicular emissions.
- 6.3.7. The assessment of effects from vehicles was done using most likely areas for significant impacts which were listed at Table 9.1 (Operational Phase Study Areas) of the Air Quality Chapter partly by reference to significant effects and partly by reference to the European Union Air Quality Directive (AQD) limit values in those areas. In many cases the areas include AQMAs.
- 6.3.8. Construction effects were assessed by reference to three sectors; Construction of the Main Site, M1 and A45 improvements; Construction of the Roade Bypass and A508 Improvements; and Construction of other highways mitigation measures. We term these the construction sectors in this Chapter of our report. They are shown on Figures 9.1, 9.2 (22 February 2019 version), 9.2 (2 May 2018 version) 9.3 and 9.4, which can all be found in the 3rd Edition.
- 6.3.9. Dust effects from construction were assessed by reference to nearby sensitive receptors drawing on professional judgment and the Institute of Air Quality Management (IAQM) guidance "Assessment of Dust from Demolition and Construction".

6.3.10. In the case of ecological effects, the Applicant explained at paragraphs 9.3.8 – 9.3.11 that there were no statutory ecologically sensitive receptors within relevant distances (save for the Roade Cutting SSSI, which is designated for geological rather than ecological importance). The Applicant also explained that non-statutory receptors would be of low sensitivity and were therefore not considered. The ecological effects of dust in the construction phase would thus be negligible.

6.3.11. Moving on from that overview, we now highlight some aspects of the Applicant's case in more detail.

Aggregates facility / terminal

6.3.12. The issue here is dust. The estimates of magnitude of dust emissions have been based on the current terminal which is in central Northampton close to a number of highly sensitive human receptors. The Applicant said that it has no dust issues. We probed this at ExQ1.1.29 [PM-007] and were told by the Applicant in reply [APP1-020] that the NBC environmental health complaints records which go back 10 years show there are no complaints on record. The closest residential properties are 20m from the site boundary downwind of the site. The site uses dust management such as dust suppression, weather and site condition monitoring and damping down of materials.

6.3.13. The assessment of the magnitude of dust emissions from the aggregates facility / terminal at the Proposed Development is 'medium'. This is based on IAQM construction guidance and is a worst-case estimate. The only human receptors within 350m of the location for the aggregates facility / terminal are Rathvilly and Lodge Farms. The Proposed Development would introduce additional human receptors but the Applicant stated they are not considered to be highly sensitive to dust impacts.

6.3.14. The two farms are upwind of the prevailing winds. The quantities of aggregate processed and number of vehicles are expected to increase by a maximum of 5% from the numbers at the town centre facility. The new facility would have dust suppression systems. The Applicant concludes that the operation of the aggregates facility / terminal is low risk for nuisance dust impacts and for PM₁₀ health effects in the absence of mitigation.

Vehicular emissions

6.3.15. The ES identified the most likely locations for significant impacts, based on changes to vehicle numbers and existing air quality (see paragraphs 9.3.18 and 9.1.7) of the Air Quality Chapter [REP5-021] page 119 and following. The approach to choice of locations was discussed with officers from NBC and SNC. The location of project-specific diffusion tube monitoring had a focus on Collingtree as NBC monitoring includes much of the town centre. Both councils provided recent air quality monitoring data.

6.3.16. The Air Quality Chapter describes in some detail the inputs to the model, modelled scenarios, model verification, sensitivity analysis, model uncertainty, and the criteria for assessing the significance of effects.

6.3.17. Baseline conditions are set out, together with the method for determining them. Following comparisons with data from the councils' monitoring and project specific diffusion tubes (including of those at Collingtree) the Air Quality Chapter concludes that there was good agreement between the background monitors and the predictions made by UK-AIR and that the data from UK-AIR would be used for annual mean background concentrations (section 9.4 of the Air Quality Chapter).

6.3.18. The Air Quality Standards are as follows:

Table 3 – air quality standards used in the assessment⁴⁷

	NO ₂	PM ₁₀
Annual mean	40µg.m ⁻³	40µg.m ⁻³
Hourly	200µg.m ⁻³ not to be exceeded more than 18 times p.a.	-
Daily mean	-	50µg.m ⁻³ not to be exceeded more than 35 days p.a.

6.3.19. The chapter assessed effects at local study areas, nationally, and in terms of compliance with the UK National Plan and EU limit values. There were ten local study areas. The detailed figures for the receptors in those areas are set out in paragraphs 9.5.52 – 9.5.163 of the Air Quality Chapter and their accompanying tables, 9.15 – 9.32.

AQMA No 1, Collingtree and NSSUE⁴⁸ study area⁴⁹

6.3.20. There is a negligible impact for both NO₂ and PM₁₀.

Northampton AQMA No 5 Wootton study area

6.3.21. There is a negligible impact for both NO₂ and PM₁₀.

Northampton AQMA No 4 study area

6.3.22. For NO₂ there is a total of three receptors where the impact is moderate adverse. A fourth receptor shows a slight impact. The nine others for 2021 are negligible. At this point we need to draw attention to the sensitivity analysis carried out by the Applicant. The Applicant explains at paragraph 9.3.33 and following that in the testing and verification of the air quality model against actual measurements it was noted in relation to NO₂ that *"there are increases when comparing mean averages from 2015 to 2016"* for which there were no clear explanations. Paragraph 9.3.35 explains that

⁴⁷ Derived from paragraphs 9.5.55 - 57 and 9.5.68 of the Air Quality Chapter

⁴⁸ Northampton South Sustainable Urban Extension, as defined by the Applicant at Appendix 8 of replies to ExQ2 [REP5-021]

⁴⁹ This area is also referred to as AQMA1 in Appx 9.11 (which uses the same receptors) and in Table 9.35 of the Air Quality Chapter

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model verification was based on 2016 so as therefore to adopt the worst case. However, the indicators of model performance showed that the model performed better when based on 2015 data and there was a smaller discrepancy between real world and modelled concentrations. Whilst the model has been run on 2016 data, the results using 2015 data have been set out in an Appendix to the chapter ([APP-211], Appx 9.4).

- 6.3.23. The Applicant has compared the results for NO₂ at this study area and noted that with the results at Table 9.4, using the 2015 data, these show only one receptor, K10, with a slight adverse effect and all the others at negligible, rather than the three receptors with moderate adverse and one slight adverse. The total number of receptors modelled at AQMA No 4 is 13.
- 6.3.24. For PM₁₀ there is a negligible impact in 2021 and 2031.
- 6.3.25. Taking all this into account the Applicant assesses the overall impact in 2021 to be slight adverse. (None of the receptors shows over 40µg.m⁻³). There is a negligible impact in 2031. Taking into account a moderate adverse impact at K10 in 2021 (that is, on the figure before adjustment by the sensitivity assessment) and the headroom between the result and a substantial adverse finding, the Applicant concludes that the worst case impact at isolated dwellings would be moderate adverse impact in the interim period and therefore that the impact of the Proposed Development in AQMA No 4 in the interim period would be slight adverse.
- 6.3.26. The overall impact is slight adverse in 2021 and the interim period, and negligible in 2031.

Northampton AQMA No 2, 6 and 8 study area

- 6.3.27. There is a negligible impact for both NO₂ and PM₁₀.
- 6.3.28. However, it should be recorded that at one receptor, CS1, the concentration of NO₂ rises from 47.1 without to 47.2 with the development. The Applicant points out that the receptor would be above the 40 level without the development. This is the maximum in 2021. The next highest 2021 level for a receptor in this study area with the development is 37.2.

Northampton AQMA No 3 study area

- 6.3.29. The overall impact is assessed as slight beneficial in 2021, and negligible in 2031 and the interim period. It should be recorded that at three receptors the figures for NO₂ in 2021 would be higher than 40µg.m⁻³. However, at two of these there is a 1µg.m⁻³ decrease from the without development figure, assessed as moderate and substantial beneficial impacts respectively. At the third, the increase due to the development at 2021 is 0.1µg.m⁻³, which is assessed as negligible.
- 6.3.30. Sensitivity analysis was again applied, and this reduced the two beneficial impacts to slight beneficial at both receptors.

Roade and West Lodge Cottages study area

- 6.3.31. The overall impact is negligible adverse in 2021 and slight beneficial in 2031.
- 6.3.32. An additional comment is justified in our view at this study area. Roade would benefit by the construction of the Roade Bypass within two years of first occupation, in other words during the interim period between 2021 and 2031. As this would remove traffic from the centre of Roade, why is the impact not greater than slight beneficial? The Air Quality Chapter comments at paragraph 9.5.131 that in the interim period the vehicle fleet is expected to improve as it is gradually replaced with more technologically advanced and cleaner powered vehicles; *"[A]s such the same reduction in AADT traffic flows in 2031 will have a smaller impact on pollution than the same reduction in 2023 [the date for construction of the bypass]. The overall slight beneficial impact predicted in 2031 is, therefore, likely worst-case for Roade in the interim period"*.

Blisworth and Milton Malsor study area

- 6.3.33. There is a negligible impact for both NO₂ and PM₁₀.
- 6.3.34. In relation to Blisworth and Milton Malsor the Air Quality Chapter has two paragraphs of comment (5.139 and 5.140) to which we would draw attention; that the Proposed Development is expected to have some beneficial impacts in terms of PM₁₀ in 2021 and 2031; and whilst the NO₂ impacts are largely beneficial in 2031 they are more mixed in 2021; and that the two villages are predicted to experience some comparatively large changes in pollution concentrations, especially in 2031 when comparatively large benefits are predicted. Due to good baseline air quality these changes the Applicant explains are not considered significant according to the IAQM guidance.
- 6.3.35. Whilst we did not put this to the Applicant during the Examination it seems to us that the question of comparative size of change and benefits when assessed outside the IAQM guidance will be somewhat subjective although will be a judgment arrived at by qualified professionals who, under the Infrastructure Planning (EIA) Regulations 2017, are required to be competent. The individual impacts are all stated in Tables 9.27 and 9.28 to be negligible. We do not read the chapter as disagreeing with that. The assessment of the effect on the Blisworth and Milton Malsor study area is, however, stated as beneficial in 2021, 2031 and the interim period (see paragraph 5.141). In the overall table (9.35) the assessment is negligible.

Towcester study area

- 6.3.36. The Air Quality Chapter in paragraphs 9.5.142 – 9.5.149 - the section dealing with Towcester - states that the impacts on air quality are predicted to be imperceptible in 2021, and beneficial in 2031 and assesses overall impact in 2021, 2031 and the interim as negligible. Table 9.35, which collates the overall impact assessment for all the study areas, gives the impacts as negligible in all cases.

Hartwell study area

6.3.37. The overall impact is negligible in 2021, 2031 and the interim period.

Grafton Regis and Potterspury study area

6.3.38. The overall impact is negligible in 2021, 2031 and the interim period.

Overall effects of vehicle emissions (operational)

6.3.39. The Applicant has summarised its assessment of these impacts on the local study areas at Table 9.35 which we reproduce below.

Table 4 – extract from the ES

Table 9.35: Overall impact of Proposed Development in each study area

Study area	Overall significance of impact (NO ₂)			Overall significance of impact (PM ₁₀)		
	2021	Interim	2031	2021	Interim	2031
AQMA 1	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
AQMA 5	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
AQMA 4	Slight Adverse	Slight Adverse	Negligible	Negligible	Negligible	Negligible
AQMA 2	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
AQMA 6	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
AQMA 8	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
AQMA 3	Slight Beneficial	Negligible	Negligible	Negligible	Negligible	Negligible
Roade & WLC	Negligible	Slight Beneficial	Slight Beneficial	Negligible	Negligible	Negligible
Blisworth & Milton Malsor	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
Towcester	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
Hartwell	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible
Grafton Regis and Potterspury	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

6.3.40. We have reported the effects on the study areas by reference to effects, without giving the actual figures for those areas. The figures can be seen in the tables. We take the view that it is pertinent to note that for the study areas from Roade and West Lodge Cottages onwards the NO₂ figures are well below the 40µg.m⁻³ limit values for 2021 with and without the development and 2031 with and without. We would make the same observation for the 2018 baseline figures, except at Towcester where two of the three are above 40µg.m⁻³. PM₁₀ figures are also well below 40µg.m⁻³ at all areas for all scenarios.

Compliance with the UK National Plan and EU Limit values

6.3.41. The NPSNN paragraph 5.12 and 5.13 require the SoS to give air quality substantial weight where a project would lead to a significant air quality

impact in relation to EIA or where it would lead to a deterioration in air quality in a zone or agglomeration. The SoS should refuse consent where the air quality impacts would result in a currently compliant zone becoming non-compliant, or it affects the ability of a non-compliant area to become compliant within the most recent timescales reported to the European Commission at the time of the decision.

6.3.42. The Applicant selected the A45 to determine whether the Proposed Development is going to delay compliance of the East Midlands zone with the UK National Plan⁵⁰ and EU limit values. This is because it was identified in the UK National Plan as the road at most risk of non-compliance in 2021 in the East Midlands Zone in a scenario in which Clean Air Zone measures have been implemented (see paragraph 9.5.178 of the Air Quality Chapter). The Applicant explained that it is predicted to become compliant by 2020 (paragraphs 9.3.48-49).

6.3.43. The Applicant explained that the 2021 baseline NO₂ for the A45 is 36 µg.m⁻³ and that with the Proposed Development in 2021 it is predicted to be 36.8 µg.m⁻³. This is below the EU limit value of 40µg.m⁻³. Therefore, the zone would be in compliance with the UK National Plan and the EU objectives. Nor would it delay future compliance. Nor does it cause a currently compliant zone to become non-compliant.

Mitigation – construction phase

6.3.44. The Applicant described the mitigation measures both in the Air Quality Chapter (paragraph 9.6.1) and in Appx 9.8 [APP-215]. The precise measures would be included in P-CEMPs which are to be determined pursuant to Req 12 of the DCO. Priority Dust Management Zones are set, and highest risk activities are to be avoided in the area of the Main Site closest to them. The zones were shown on Figures 9.1 and 9.2. We found these hard to identify and in answer to a question from us they were shown more clearly by way of insets on new Figures 9.1 and 9.2, at pages 68 and 69 of Appendix 3 to the Applicant's replies to ExQ2 [REP5-021]. They deal not only with the Main Site but also with the Road bypass. The Applicant concludes at paragraph 9.7.1 that after this mitigation there would be no significant nuisance effects.

Mitigation – operational phase

6.3.45. For the aggregates facility / terminal, where the risk of nuisance dust and PM₁₀ health effects is considered to be low, the Applicant proposes to mitigate through standard and best practice measures it refers to in Appx 9.8 similar to those used for dust suppression in the construction phase. They would be secured by Req 8.

6.3.46. In relation to road emissions, a Framework Travel Plan and Public Transport Strategy have been produced. However, they have not been taken into account in assessing impacts. Whilst the development is expected to have a

⁵⁰ We assume that the Applicant means the UK Air Quality National Plan 2017 which is also referred to at paragraph 9.2.20 of the Air Quality Chapter
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largely negligible impact on air quality, some significant effects are likely at AQMA No 4 and in the interim period.

- 6.3.47. At the time of the application the Air Quality Chapter recorded that discussions were underway with NBC on measures to reduce the significance of the adverse impacts there, including the introduction of Euro VI class buses for the dedicated SRFI bus service and contributions to electric vehicle charging points. Measures to encourage modal shift towards vehicles with cleaner engines and more frequent bus services to support reduced emissions within the AQMAs were under discussion (see paragraphs 9.8.10 and 11 of the chapter). There are now measures in Req 4 requiring, for example, reasonable endeavours to maximise the use of Euro VI class public transport and HGVs and we note from NBC's response to ExQ2.1.27 [REP5-040] that this is agreed with the Council.

Residual effects

- 6.3.48. Construction has the potential to release dust which might cause a nuisance. However, this can be mitigated through the P-CEMPs and no significant nuisance effects are expected.
- 6.3.49. There are not expected to be any effects higher than negligible in 2031. There would be a negligible beneficial effect at national and regional scale from the transfer of freight traffic from road to rail which is of importance in the context of the policy in the NPSNN. There may be a slight adverse impact in AQMA No 4 in 2021 and the interim period limited to isolated dwellings close to junctions and slow-moving traffic. This is temporary and would be negligible by 2031. Mitigation measures would however encourage modal shift and help mitigate these temporary effects.
- 6.3.50. We note that at paragraph 9.7.8 the chapter states that there are not predicted to be any significantly adverse effects on annual mean NO₂ or PM₁₀. But, noting that the effects as summarised in Table 9.35 are stated to be negligible apart from a slight beneficial impact at Roade, we presume that here the Applicant is equating negligible with no significant effect.

Cumulative effects

- 6.3.51. We note on this aspect that, following the difficulties with RC's highway assessment, it was urged on us by both the Applicant and RC that there are not any reliable figures on which to base cumulative traffic effects with the RC proposal. We accept this. This carries over into air quality in so far as vehicle emissions are concerned.
- 6.3.52. Dust effects in the construction phase would be relevant if the construction of the two developments overlap. The Applicant's case is that cumulative dust effects would be no more than negligible with RC, the only relevant development for cumulative dust effects. This is because of a combination of wind direction and the distance to relevant receptors.
- 6.3.53. Vehicle emissions from other developments have already been considered because the transport modelling takes account of all of the commitments and allocations to deliver the planned growth in the Joint Core Strategy and

beyond. The traffic assessment also took the Smart Motorway scheme for the M1 into account (see paragraph 12.8.1 of the Transportation Chapter of the ES, [APP-116,]). Whilst the cumulative effects section of the Air Quality Chapter also sought to assess effects cumulatively with the RC proposal on the basis of the information available prior to the submission of this application, the difficulties with the RC data, which came out during the examination of this application, meant that no reliable or meaningful assessment with the RC proposal could be maintained.

- 6.3.54. The Air Quality Chapter did in fact conclude that there is likely to be sufficient headroom at each sensitive receptor to suggest that the air quality cumulation impacts with RC would not be significant. We asked the Applicant's consultant at ISH4 if this still held good in the light of the difficulties with the RC data. The answer was that the consultant would be not be happy to rely on it still. RC's advocate, Mr Philpott, suggested that the fact that no likely significant cumulative effect is revealed on expectations at the time of the report, indicates the probability of no significant likely significant effects under the scheme when amended. We consider, however, that this is now a question for the SoS in the context of the RC application if and when it is examined and reported upon.
- 6.3.55. The risks of intra-development cumulative dust effects from construction were considered to be negligible.

The Applicant's Conclusions

- 6.3.56. The Applicant concludes that there would be no more than negligible effects in relation to PM₁₀ in all years assessed and negligible effects in relation to NO₂ in most areas. The exception is AQMA No 4 in 2021 and the interim period ahead of mitigation. Slight adverse effects are predicted at AQMA No 4 in relation to annual mean NO₂ concentrations. There would be slight beneficial effects at AQMA No 3 in 2021.
- 6.3.57. On implementation of the Roade Bypass in the interim period the impacts are predicted to be slight beneficial. The absolute reductions in pollution in Roade are large and the impacts are only considered to be slight because the baseline air is already good.
- 6.3.58. In terms of cumulative impacts, the transport modelling takes into account all of the commitments and allocations to deliver the planned growth in the Joint Core Strategy and beyond. In the case of vehicle emissions they are thus considered in the assessment already. In the light of the difficulties with the RC figures the Applicant submitted at ISH4 that no cumulative assessment can be done with their traffic effects and that would be a matter for consideration as part of the RC application if and when it is examined. For the record we note that nothing is said in the conclusions section of the Air Quality Chapter on cumulative dust, but it was addressed in the cumulative section and assessed as negligible.
- 6.3.59. There would not be any non-compliance or delay in compliance with EU limits in the East Midlands zone.

- 6.3.60. There would be a 469.1 tonne reduction in the emission of NO₂ and 122.9 tonne reduction in PM₁₀ emissions between 2021 and 2036. This could have a benefit to society of up to £24 million.
- 6.3.61. Local impacts would be minimised by the Travel Plan, though no account has been taken of it in the assessment so as to ensure robustness.
- 6.3.62. The Proposed Development would meet the policies of the NPSNN and thus air quality effects are not a barrier to the planning process.

6.4. LOCAL IMPACT REPORTS, AND OBJECTIONS MADE BY INTERESTED PARTIES AND IN RELEVANT REPRESENTATIONS

- 6.4.1. The three councils submitted LIRs. NCC's LIR [REP1-036], did not refer to air quality. NBC's LIR [REP1-089] confirmed that it agreed the methodology of the air quality assessment and did not challenge any of the findings or conclusions. It drew attention to and summarised its SoCG with the Applicant, which was an unsigned agreement in principle. This included acceptable on-site mitigation, a package of mitigation against any adverse impacts and to provide environmental gains in some AQMA, a bus service with Euro VI-compliant vehicles, and a financial contribution via a s106 agreement to offset the impact of emissions by funding projects to help deliver NBC's low emission strategy.
- 6.4.2. NBC confirmed in its answer to ExQ2.1.26 that it had reached an agreed position on the financial contribution with the Applicant, contained in the s106 agreement. The actual obligation conforms to what it set out in that reply. The bus service is secured via the public transport strategy and Req 4.
- 6.4.3. In its comments on air quality, SNC's LIR [REP1-037] did not disagree with the air quality assessment and drew attention to the beneficial effects of the Roade Bypass which it described as "*a significant positive local impact in terms of risks for air quality*".
- 6.4.4. At ISH4 SNC made some comments on dust mitigation, on which we asked for clarification by D6. This SNC did in its post-ISH4 submissions [REP6-039] where amendments to the CEMP were sought. These included dust risk assessment for each P-CEMP in accordance with IAQM Guidance on assessment of Dust from Demolition (2014), and mitigation based on that guidance. SNC also sought daily inspections for visible dust emissions both inside and outside the site and, where receptors are "*in close proximity*", to assessments in accordance with the IAQM Guidance on Air Quality Monitoring in the vicinity of Construction & Demolition Sites 2018. Subject to that, SNC considered that the CEMP and P-CEMPs would result in appropriate dust mitigation and minimise cumulative effects with RC.
- 6.4.5. Both NBC and SNC submitted WR. In the case of NBC on air quality they were a shorter form of its LIR. The SNC LIR did not make separate comments on air quality but noted the beneficial effects of the Roade Bypass

on air quality and described the bypass as "*critical to the local impact in this part of South Northamptonshire*". NCC did not address air quality issues.

- 6.4.6. There were many RRs and WRs which have all been read and taken into account. Some specific representations and the cases made are summarised below.
- 6.4.7. SRNG made extensive representations [REP1-054]. Its comments on the Air Quality Chapter of the ES, however, were only on the draft which was available during the pre-application consultation period and was not submitted as an Examination document. They included the following complaints:
- that no justification was given for the estimated reduction of 93 million miles of HGV trips;
 - that NPSNN guidance on AQMA's was omitted;
 - that NBC data on AQMA 1 had not been used and the Applicant had used data from its own consultants;
 - that monitoring by Collingtree Parish Council throws doubt on the Applicant's baseline measurements at Collingtree and the A45, and on statements that concentrations decline rapidly with distance from the M1;
 - that assessment of sensitive receptors within 350m of the site is questionable, with understatements and omissions;
 - that traffic growth from the M1 widening has not been included in the calculations, although the widening is acknowledged;
 - that the draft ES should have examined a wider area surrounding AQMA No 1; and it omitted the SUE 5⁵¹ housing development and Grange Park; and
 - that the earth bunds on the west side the M1 would create a canyon effect restricting motorway emissions to the west and redirecting pollution back towards communities to the east, such as Collingtree.
- 6.4.8. Reference was also made to World Health Organisation (WHO) limits which in general are lower than those adopted by the UK Government. SRNG concluded that the Proposed Development is contrary to European, national, regional and local policies on air quality.
- 6.4.9. Collingtree Parish Council, in its WR [REP1-040], only commented on the 'Short Explanatory Document' distributed during the consultation stage rather than on the actual application documentation. It draws attention to the 350 households in Collingtree and planning consent for a further 1,021 dwellings, to allotments, club's football training ground and a primary school which it says is within 100m of the northern boundary of the Proposed Development.
- 6.4.10. The Parish Council carried out its own air quality measurements at 10 locations giving validated results of between 54.34 at Collingtree High Street and 26.5 outside Collingtree Primary School. They cite other parishes who have done testing in Milton Malsor, Roade, Blisworth and Towcester which

⁵¹ Not defined in the representation but we believe that SRNG is referring to the Northampton South Sustainable Urban Extension Northampton Gateway SRFI TR050006
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indicate hotspots with measurements ranging from 49.75 to 78.4. The units we presume are $\mu\text{g.m}^{-3}$ but it is not specified whether this is for NO_2 or PM_{10} . We presume the former. The results are included in Addendum 2 of the WR made by SRNG which states they show nitrogen dioxide levels.

- 6.4.11. Mr Rod Sellers makes similar points in his WR [REP1-090].
- 6.4.12. Mr Malcolm Brice drew to our attention in his post-hearing submission for OFH2 [REP6-024] the change in appearance of paving slabs left outside exposed to local air for more than a year, and supplied a photograph.
- 6.4.13. Andrew Bodman in his WR [REP1-063] says at paragraphs 282 - 284 and in his summary that the NO_2 forecasting at selected points uses revised DEFRA forecasting methodology which has lowered levels by 47% compared with previous forecasts which he says is astonishing. He also comments that three quarters of UK rail-freight locomotives do not comply with the latest emission legislation and half may not comply at all.
- 6.4.14. In his review of the Applicant's answer to ExQ1.1.14 [REP2-013] Mr Bodman says that the additional mileage generated by employees travelling to the Proposed Development has not been taken into account, particularly bearing in mind that they may not all come from Northampton and may come from further afield. He calculates that the employee mileage would exceed the forecast reduction in commercial mileage. (See also paragraphs 259 – 266 of his written representation [REP1-063].)
- 6.4.15. Mr Bodman questions why the Applicant claims only 100 HGV journeys per day passing through AQMAs elsewhere in the country in calculating the national impact on air quality of the Proposed Development – see paragraph 9.3.19 of the Air Quality Chapter and paragraph 285 of his WR. He calculates that 100 HGV journeys is equivalent to about two freight trains, whereas the full capacity of the Proposed Development is 16 trains per day and it must have capacity for a minimum of 4 per day.
- 6.4.16. Ms Lyn Bird in her WR [REP1-068] and oral submission at ISH2 raised issues of the WHO's concerns about air pollution and particularly $\text{PM}_{2.5}$ particles. We had also raised a question about why the assessment had addressed NO_2 and PM_{10} , but not other pollutants, and NBC had observed that $\text{PM}_{2.5}$ had not been addressed. $\text{PM}_{2.5}$ was said by Mrs Bird to be a pollutant of public health concern.
- 6.4.17. RC did not make any comments in its WR [REP1-029] (save in relation to climate change) but it did intervene in ExQs 1 and 2 and at various other junctures. In summary, its issues on air quality were:
- that mitigation was confusingly identified – this is one of RC's overall criticisms of the ES;
 - in relation to the air quality effects of construction traffic combined with operational traffic – (at RC's comments on the Applicant's D1 responses, [REP2-016] ExQ1.1.19);
 - that, in relation to the aggregates facility / terminal, there was inadequate commitment to mitigation [REP2-016];

- that methodology was not clearly explained (a comment on Applicant's reply to ExQ 1.1.32 on demolition) and there was a need for mitigation to be secured;
- that there was no commitment to low emission strategy measures (a comment on the Applicant's reply to ExQ 1.1.33); and whether it is this alone or the provision of 5% electric charging spaces which informed the residual effects;
- that the methodology for assessing the number of medium sensitivity dust receptors in the SRFI was not explained and the number not given - ExQ1.1.36; and
- that the cumulative assessment needed to be updated to take account of the updated RC application - ExQ 1.1.50.

The above are in [REP2-016]; and there were previous criticisms in [REP1-033] – RC's own responses to ExQ1, to which the Applicant responded in thematic terms in [REP2-011] at paragraph 4 onwards. There was then a reply from RC to REP2-011 [REP3-016].

- 6.4.18. At [REP4-010] the Applicant responded to REP3-016, referring the ExA to what was said at ISH2 (see section 2 of REP4-011, basically that the Proposed Development has been adequately described, that the commitments are there and the tracker updated, and that this is not a one-size fits all approach to ES) and in previous responses and in the revised Cumulative Impact Assessment.
- 6.4.19. In RC's ISH2 submissions [REP4-020] it drew attention to what it said is inadequate description of the development, inconsistency/lack of clarity with regard to eg primary and secondary mitigation, and landscaping. NG replied at [REP5-019] – pointing out that nobody else was raising these points on the adequacy/comprehensibility of the description of the development.
- 6.4.20. RC responded to ExQ2 [REP5-024] and at [REP5-026] made a response to the updated CIA. In [REP6-018] - RC's post-ISH4 submissions - RC made criticisms of the way the Applicant had dealt with impact interactions. It singles out one or two as examples including air quality for residents close to Roade Bypass where it draws attention to a difference between minor to moderate beneficial in Chapter 15 of the ES and negligible in Appx 2 of Doc 8.2 submitted at D1 – see para 20 - 27 of its note. RC said there were 20 discrepancies and which it would submit by D6. RC made other criticisms not relevant to air quality.
- 6.4.21. The Applicant responded at [REP6-011] to [REP5-026] which also refers to the table the Applicant had produced at D1 in response to ExQ1.0.3 of the impacts. The Applicant replied at [REP7-006] to [REP6-018] on the question of impact interactions.
- 6.4.22. Mrs Andrea Leadsom MP is the local Member of Parliament. She submitted a RR, a WR and other submissions to the examination. She was represented at ISH4 and in her post-hearing submission for ISH4 [REP6-044] she suggested that Government modelling is over-optimistic in predicting compliance with air quality values in Northampton by 2020. NBC also raised a similar issue in its reply to ExQ1.1.3 [REP1-121]:

"A key failure in the National Air Quality Plan is the optimistic modelling (PCM v3.2) that uses fleet emission projections that are not realistic for Northampton. For example, the model assumes that 49% of all bus km travelled in Northampton in 2018 are by Euro VI buses. This figure increases to 66% in 2020 and 73% in 2021. Stagecoach, our main bus operator, has stated that there will be no investment in Euro VI buses for several years due to investment in new buses for the Clean Air Zone in Birmingham.

NBC understands that similar assumptions have been incorporated into the air quality assessment for the SRFI scheme. NBC feel that forward predictions of absolute concentrations in NO₂ are optimistic, however, NBC acknowledges that the assessment in the magnitude of changes in air quality in our AQMA uses best available data in concluding that there will be a slight worsening of NO₂ levels in some of our AQMA and some improvement in other AQMA due to improved traffic flows. The predicted air quality concentrations for future years in the AQMA where there will be a slight worsening are below AQO / EU Limit Value levels."

- 6.4.23. Blisworth Parish Council in its post-hearing submission for ISH4 [REP6-022], when considering cumulative impact, questioned the effects of a doubling of emissions on AQMAs and sensitive receptors in the area.
- 6.4.24. We raised 51 questions about air quality in ExQ1 and 35 at ExQ2. Some of these questions were to clarify matters and to help our understanding. A few were matters of principle. Save where in this Report we have raised issues or expressly stated to the contrary we have been satisfied with the answers given by the Applicant.
- 6.4.25. The Air Quality Chapter of the ES [APP-095] did have a number of errors. The Applicant and its consultants answered our questions on those in ExQ1 and ExQ2 [REP1-020] and [REP5-021]. A corrected version was issued for ease of reference at D4 and in response to questions at ExQ2 identifying other such errors a further corrected version was included by the Applicant in its replies to ExQ2 [REP5-021] at Appendix 3. It can be found at electronic page 119 of [REP5-021]. References to the Air Quality Chapter are to that edition which, when necessary, we refer to as the 3rd Edition.
- 6.4.26. One of the issues we raised concerned the assessment of impact from vehicular emissions during the construction phase. We explain and deal with this under the ExA's Consideration.

6.5. THE EXA'S CONSIDERATION

- 6.5.1. In this section we first consider the LIRs, and objections made by interested parties and in RRs noted above, followed by the vehicular emissions during the construction phase, and then consider policy matters.
- 6.5.2. The LIRs do not take issue with the data or conclusions of the Air Quality Chapter. SNC's LIR and WR are positive about the Roade Bypass's effect on air quality in Roade.
- 6.5.3. In relation to SNC's submissions at ISH4 and in its post-ISH4 submissions [REP6-039], the Applicant responded in [REP7-007] that *"The Applicant has*
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amended the CEMP (submitted at D6 [REP6-003]) to introduce specific reference to the IAQM and other points of clarification. These are considered to provide an appropriate basis from which P-CEMPS can be prepared and agreed and construction activities appropriately controlled."

- 6.5.4. The amendments made by the Applicant are not as extensive as those sought by SNC. But they do require contractors to plan their activities in accordance with the IAQM Guidance on Assessment of Dust from Demolition (2014). Bearing in mind also that the P-CEMPS have to be approved by the relevant planning authority (which will either be SNC or NBC), in consultation with NBC, we are of the view that the amendments made by the Applicant are adequate.

SRNG's representations

- 6.5.5. In relation to the points made by SRNG and summarised above which formed part of Part A of its WR, the Applicant's reply in its Responses to Written Representations [REP2-010] was "*The comprehensive representations made including Part A of the SRNG WR are not responded to in this submission. The ExA are referred to the other responses on behalf of the Applicant, and in particular to the response to Dr Andrew Gough, below*".
- 6.5.6. We were not supplied with the draft ES about which these comments are made, and it does not form an Examination Document. Representations are to be about the application and it is difficult to take these matters into account therefore.
- 6.5.7. The question whether there would be a reduction of 93 million miles of HGV traffic is also raised by Mr Bodman who goes further and says that employees would have to travel from further afield and that their commuting distances would exceed the reduction in HGV miles. This is set out at his WR [REP1-063]. He calculates that the commuting would be 36 million miles a year, and that the HGV miles would be 29 million, of which half would be offset which reduces the figure to 14.4 million miles. The Applicant's claim is in fact for 92 million miles and it is set out in its detailed explanation of the 92 million miles at paragraph 12.7.42 of the Transportation Chapter. That refers the reader to Appx 34 [APP-269] of the Transport Assessment which calculates that almost 93 million miles are saved.
- 6.5.8. Mr Bodman and the Applicant have different approaches to the calculation. But Mr Bodman has not suggested where the Applicant's approach is wrong. In addition, and we think it is implicit in what the Applicant says in the Applicant's response to other Parties' D2 Submissions [REP3-009], the employees would obtain work somewhere even if the logistics development is not built with a rail connection. They would therefore have journeys to work which have not been taken into account in Mr Bodman's approach. On balance, we prefer the Applicant's approach and figures. Therefore, returning to SRNG's point, the Applicant does justify a 92 million mile reduction in HGV trips.
- 6.5.9. SRNG says that "*NPSNN guidance on AQMAs omitted*". Paragraph 9.2.4 of the Air Quality Chapter recognises that AQMAs are in the NPSNN policies.

SRNG also says that NBC data on AQMA 1 has not been used and the Applicant has used data from its own consultants. We do not think there is an objection to the Applicant's using their own consultant's data. They are required by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to be competent. In addition, paragraph 9.4.20 of the Air Quality Chapter remarks that diffusion tube 1 was co-located with NBC's High Street Collingtree tube, and that *"This allows an extra check of the method's validity by comparison with NBC's data"*.

- 6.5.10. SRNG says that monitoring by Collingtree Parish Council throws doubt on the Applicant's baseline measurements at Collingtree and the A45, and on statements that concentrations decline rapidly with distance from the M1. SRNG has not suggested any alternative baseline measurements. Collingtree Parish Council and Rod Sellers make similar points. We again observe that the Applicant's consultants are required to be competent. The Applicant explains in the Air Quality Chapter the process of validating the model. For all these reasons we accept the Applicant's baseline measurements. We would add that there is a diffusion tube in the AQMA and there are modelled receptors in the AQMA No 1 Collingtree and Northampton South SUE study area close to the M1 close up against the AQMA and some in the AQMA, and these are likely to predict worst case results.
- 6.5.11. SRNG in its WR [REP1-054] was critical of the list as it appeared in an earlier draft of this chapter saying that assessment of sensitive receptors within 350m of the site is questionable, with understatements and omissions. SRNG stated that in the list provided in the previous draft some receptors were omitted, such as a primary school and a nursing home at Collingtree. As we note above, we were not supplied with that draft and it does not form an Examination Document. Representations are to be about the application and it is difficult therefore to take that part of the representation into account. Collingtree Parish Council make similar points.
- 6.5.12. We have however compared the complaint by SRNG with Figure 1 to the Air Quality Chapter [APP-096] which shows construction phase receptors. On it, receptors such as Collingtree Park Care Home and the Kiddi Caru Day Nursery are shown as sensitive receptors. NBC has not made any complaint about Figure 1, Table 9.10 nor the choice of receptors, whether in its RR [RR-574], WR [REP1-088], LIR [REP1-089] or other responses and submissions to the Examination. Whilst not all the other receptors listed by SRNG are referred to, these factors give us confidence that the Applicant has included the relevant high sensitivity receptors in coming to its conclusions.
- 6.5.13. SRNG has noted that traffic growth from the M1 widening has not been included in the calculations, although the widening is acknowledged. The growth in M1 traffic from the Smart Motorway scheme is in fact included in the modelling as we say above at paragraph 5.3.55.
- 6.5.14. SRNG states that the draft ES should have examined a wider area surrounding AQMA No 1; and it omitted the SUE 5⁵² housing development.

⁵² What is now the Northampton South SUE
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There are three modelled receptors at the Northampton South SUE in Tables 15 and 16 which address the Collingtree and Northampton South SUE study area. Methodology was agreed with NBC and it has not queried the area assessed in the Application version of the Air Quality Chapter.

- 6.5.15. SRNG maintains that the earth bunds on the west side of the M1 would create a canyon effect restricting motorway emissions to the west and redirecting pollution back towards communities to the east, such as Collingtree. Screen bunding is noted on the Parameters Plan [APP-065] and subsequent amended version so the assessment will have taken it into account – see the Parameters Plan and paragraph 2.1.2 of Chapter 2 of the ES Description of the Development [APP-078]. The screen bunding was also clarified in a minor amendments document which the Applicant confirmed accords with what was assessed within the ES [REP5-020] - see in particular paragraph 3.4 thereof.
- 6.5.16. On these points and the others in SRNG's list of issues with the draft Air Quality Chapter which we have not listed we note that NBC, the body with responsibility for air quality monitoring, has not raised these points.

Other Interested Parties

- 6.5.17. In relation to Andrew Bodman's concern over the drop in forecast levels of NO₂ when compared with the draft of the ES, we note that NBC has not raised any objection or concern about this. NBC's LIR states "*The methodology for the assessment of air quality undertaken for the Environmental Statement of the SRFI was agreed between Northampton Borough Council and the developer of the proposed SRFI*". The point is not hidden.
- 6.5.18. Andrew Bodman commented that three quarters of UK rail-freight locomotives do not comply with the latest emission legislation and half may not comply at all. Whilst we cannot trace an answer from the Applicant directly to his question we ourselves raised the question of emissions from increased numbers of rail movements (ExQ1.1.35). The Applicant's answer [REP1-020] was very full. In essence it said that "*with regard to stationary trains, there is no location where members of the public would be reasonably expected to spend 15 minutes or more. Therefore the impact of stationary trains can be screened out*". For moving trains the criterion in LAQM.TG(16) (DEFRA's technical guidance) for inclusion is to determine whether the site is close to a relevant railway line, being a line with heavy traffic of passenger diesel trains. The Applicant stated that "*With regard to moving diesel locomotives, the WCML passing Northampton is not one of the relevant lines*".
- 6.5.19. Mr Bodman also questioned why the Applicant has only counted 100 daily HGV movements in its assessment of improvement in air quality in other areas, which is the equivalent of only two freight trains and the full capacity of the SRFI is 16 trains. If this is an issue – a point on which we express no opinion – it is in the Applicant's favour. But we put no weight on that.

- 6.5.20. In relation to Lyn Bird's submissions, on health effects of pollutants, which majored on PM_{2.5}, Andrew Whittles for NBC at ISH2 explained that it is a public health indicator, but that the sources are very widespread including volcanoes, sea salt and Saharan sand as well as vehicle emissions. PM_{2.5} he said is made up of several sectors some of which is international, some of which is regional, some local, some specifically local.
- 6.5.21. The Applicant drew attention to scoping of the ES. The Applicant had consulted with NBC; who confirmed PM_{2.5} could be scoped out. It was not, therefore a situation where NBC has asked the Applicant to do something and the Applicant had declined to do it.
- 6.5.22. Subsequently in Appendix 6 to the Applicant's post-ISH2 submissions [REP4-011] the Applicant submitted that *"The regional, international contributions of annual mean ambient PM_{2.5} concentrations at urban background locations in the UK are 45% and 20% respectively, with local urban traffic only responsible for approx. 14% of concentrations (Defra)"*.
- 6.5.23. In addition, the Applicant stated in the same appendix: *"LAQM.TG(16) 1.09 states "Local authorities in England have a flexible role in working towards reducing emissions and concentrations of PM_{2.5}, however there is no statutory obligation to achieve the annual mean objective for PM_{2.5} in England. PM_{2.5} is not monitored in NBC nor SNC"*.
- 6.5.24. We also raised a question about why pollutants other than PM₁₀ and NO₂ had not been assessed - ExQ1.1.4. The answer was that they are the main pollutants of concern within the administrative districts of NBC and SNC.
- 6.5.25. For all these reasons we think that the Applicant is justified in not carrying out assessment of PM_{2.5} and other pollutants suggested in the course of the Examination.
- 6.5.26. Malcolm Brice sought to demonstrate poor air quality with a comparison of old and new paving slabs, the former having been exposed to ambient air for more than a year. Obviously, slabs do weather and receive atmospheric deposits, but we regret that we do not think the illustration is sufficiently robust and scientifically validated to be taken into account.
- 6.5.27. The local MP, Andrea Leadsom suggested that Government modelling is over-optimistic in predicting compliance with air quality values in Northampton by 2020. NBC made a similar point. We think, however, that NBC gives the answer to the point when it says *"NBC acknowledges that the assessment in the magnitude of changes in air quality in our AQMA uses best available data"*.
- 6.5.28. We note Blisworth Council's concern about the cumulative effect on air quality of both the Proposed Development and the RC development should that go ahead. Given the submissions made to us by for RC and the Applicant at ISH4 to the effect that in view of the review of the RC highways proposals the traffic data are currently too uncertain, the cumulative effects will be for the ExA and SoS considering RC's application.

- 6.5.29. We turn to RC's criticisms. The criticism that mitigation is confusingly identified is a recurring point. We have addressed it in Chapter 4. In relation to the effects of construction traffic we had a rather more detailed concern which included those raised by RC. We address it below. On the need for the mitigation in relation to the aggregates facility / terminal to be secured, the Applicant recognised this in its response to RC's D2 submissions [REP3-008] and Req 8(2)(m) requires mitigation (in the form of water suppression on stockpiles and wheel-washing) to be approved.
- 6.5.30. In relation to methodology with regards to assessment of demolition impact, (ExQ1.1.32) this is also one of the general complaints made by RC. We are satisfied that the methodology can be discerned from the ES particularly when the environmental information is taken into account. Mitigation is secured to deal with demolition effects. In relation to the criticism of dust mitigation in the same reply we note the Applicant states that dust would be addressed via the CEMP and P-CEMPs and it has recognised the need for special mitigation with Priority Dust Management Zones.
- 6.5.31. RC suggested that there is no commitment to Low Emissions Strategy Measures. These we note have been agreed with NBC and there are provisions in the s106 agreement and requirements securing them, to the satisfaction of NBC.
- 6.5.32. The methodology for assessing the number of "medium sensitivity [dust] receptors" in the occupied development is not explained and nor is the actual number given. We refer to our comments at Chapter 4. We would add that we did not find the Applicant's answer to ExQ1.1.36 difficult to follow and it states that a judgment is made based on the number of sensitive receptors, using IAQM guidance as to sensitivity. The Air Quality Chapter refers to the IAQM guidance and it is evident that judgments were made.
- 6.5.33. The cumulative assessment should be updated to take account of the revised RC application. This comment by RC was made at D2, 20 November 2018. Since then its application has been delayed for further assessment work to be carried out and both RC and the Applicant submitted to us that the traffic data, and therefore air quality data, are not available at sufficient quality.
- 6.5.34. In relation to the other criticisms in [REP1-033] – RC's own responses to ExQ1 - to which the Applicant responded in thematic terms in [REP2-011] at paragraph 4 onwards, we are satisfied by that response taken together with replies by the Applicant to ExQ1 and other questions both then and later.
- 6.5.35. Exchanges continued between RC and the Applicant [REP3-016], [REP4-010], [REP4-011], [REP4-020], [REP5-019], [REP5-026], [REP6-011], [REP6-012], [REP6-018], [REP6-019], and [REP7-006]. We have had regard to them, they are more generic and in addition our consideration and conclusion in Chapter 4 deals with them. We have considered them all in the context of Air Quality and there is one point which we think should be expressly addressed here. In [REP6-018] RC made criticisms of the way the Applicant has assessed impact interactions. It singles out one or two as examples including air quality for residents close to Roade Bypass where it draws attention to a difference between minor to moderate beneficial

assessment of air quality effects in the vicinity of the Roade Bypass stated in Chapter 15 of the ES (which is on cumulative assessment) and the negligible assessment in Appx 2 of the Applicant's replies to ExQ1 [REP1-020] – see paragraph 20 - 27 of RC's [REP6-018].

- 6.5.36. The Applicant replied at [REP7-006] to [REP6-018] on the question of impact interactions. It pointed out that the cumulative assessment in ES Chapter 15 is performing a different role from the Table in Appx 2 of Doc 8.2 [REP1-020]. So there will be differences. We raised questions about the methodology of the cumulative chapter in ExQ1 and we are satisfied with the answers given by the Applicant in [REP1-020]. Therefore, the criticism of the air assessment on the residents near the Roade Bypass is not one with which we agree. We also take the Applicant's point that the criticisms are of the judgments which are labelled as "discrepancies" by RC.

Vehicular emissions in the construction phase

- 6.5.37. The effects of vehicular emissions from the construction phase are addressed at paragraphs 9.3.12 - 14 and 9.5.39 - 40 of the Air Quality Chapter. The former three paragraphs address methodology and the latter two paragraphs address effects. We draw attention to the fact that in a construction project such as this there will be two types of construction phase vehicular emissions; emissions from construction traffic, which is largely travelling off-site, and emissions from on-site plant and machinery.
- 6.5.38. Dealing first with methodology we note that paragraph 9.3.12 records that emissions from construction phase vehicle movements have the potential to affect local air quality. It then comments that construction traffic would vary but that no heavy construction vehicles would be permitted to use the A508 south from the Main Site and that delivery vehicles would be routed via the principal strategic road network (the M1 and A45) to avoid effects on residential areas. (There is an exception to this; traffic constructing the Roade Bypass and other A508 improvements would have to use that stretch of the A508. In its answer to ExQ2.1.3 [REP5—021] the Applicant explained that the numbers of construction vehicles using the A508 for the Roade Bypass construction would be below the IAQM threshold (in the IAQM guidance 'Land-Use Planning & Development) Control: Planning for Air Quality', and the effect is therefore negligible and temporary).
- 6.5.39. Continuing in relation to methodology, paragraph 9.3.13 explains that AQMA No 1 and AQMA No 5 are situated on the M1 and A45 respectively and so, as the increase exceeds the relevant IAQM threshold, an assessment of construction phase traffic on the M1 and A45 was made.
- 6.5.40. We now turn to effects and paragraphs 9.5.39 - 40. In these paragraphs we read that:
- "9.5.39 Combustion exhaust gases from diesel-powered plant and construction vehicles accessing the site will also be released. Given the scale of the Proposed Development, the volumes and periods over which these releases will occur are likely to have the potential to cause effects at nearby existing sensitive receptors."*

9.5.40 Appendix 9.11 shows that the emissions from construction related vehicles associated with the Proposed Development will have a Negligible impact on local receptors in AQMA No.1 and AQMA No.5."

- 6.5.41. We now turn to Appx 9.11 [APP-218]. This contains three tables, the relevant ones being Tables A9.11.2 and A9.11.3. They deal with NO₂ and PM₁₀ respectively. It also contains the following two statements that "*The impact of NO₂ and PM₁₀ emissions associated with traffic from the construction phase of the Proposed Development was predicted to be Negligible at all assessed receptors*"; and "*Considering the above the construction of the Proposed Development is expected to have an overall negligible impact*".
- 6.5.42. The two tables show changes of negligible significance. The figures in both are, however, the same and in response [REP5-021] to our enquiry at ExQ2.1.12 about this the Applicant advised that the figures for PM₁₀ from Table 9.16 (which deals with operational effects at Collingtree and AQMA No 1) should be used. In both cases the effects are negligible. The Applicant also confirmed in that response that the conclusion to Appx 9.11 that the impact of both NO₂ and PM₁₀ from construction phase traffic was predicted to be negligible, and that the construction of the Proposed Development was expected to have an overall negligible impact remained the same.
- 6.5.43. However, using the figures from Table 9.16 does not provide all of the necessary figures as the PM₁₀ table in Appx 9.11 (Table A9.11.3) covers both AQMA No 1 and Collingtree on the one hand and AQMA No 5 and Wootton on the other, and the Wootton figures had the same issue – the figures for NO₂ and PM₁₀ were the same. By the time this came to light the Examination had closed. On the basis that the PM₁₀ figures from Collingtree in Table 9.16 could be used, it seems to us that the PM₁₀ figures from Wootton in Table 9.18 can be used. The 2021 figures for PM₁₀ show change from the no development scenario of negligible effect. So, the conclusions of App 9.11 would still be the same, namely that the impact of both NO₂ and PM₁₀ from construction phase traffic was predicted to be negligible, and that the construction of the Proposed Development was expected to have an overall negligible impact.
- 6.5.44. We have a concern about the second conclusion as the figures in Appx 9.11 are for off-site traffic and the conclusion is for construction overall, so including on-site construction plant. Also, that whilst data in Appx 9.11 is for effects on AQMAs Nos 1 and 5, areas which are obviously relevant to the Main Site M1 and A45 works, it is not obvious how the effects of emissions from on-site plant and vehicles has been assessed in relation to the other two construction areas, namely the 'Roade Bypass and A508 improvements', and the 'Other Highways Mitigation Measures'. In addition, we are concerned as to whether off-site construction traffic has been assessed for those areas.
- 6.5.45. Dealing first with the on-site plant and construction traffic, The Institute of Air Quality Management guidance on assessing dust emissions (which is the standard guidance on which the Applicant based its construction dust assessment) says that "*Experience of assessing the exhaust emissions from on-site plant (also known as non-road mobile machinery or NRMM) and site*
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traffic suggests that they are unlikely to make a significant impact on local air quality, and in the vast majority of cases they will not need to be quantitatively assessed. For site plant and on-site traffic, consideration should be given to the number of plant/vehicles and their operating hours and locations to assess whether a significant effect is likely to occur."

- 6.5.46. The 2021 plus construction traffic NO₂ concentrations at all the receptors in the Collingtree and Wootton areas (AQMA Nos 1 and 5) in Appx 9.11 are not closer to 40 µg.m⁻³ than 34.9 with most receptors being below 32.2, well below the 40 µg.m⁻³ figure. There is therefore some headroom. Construction effects are also temporary of course. Whilst it is unfortunate that there is no explicit assessment about this from the Applicant, and no clear evidence was presented during the Examination, taking all these matters together our assumption is that it is unlikely there would be significant effects from on-site construction plant and traffic emissions.
- 6.5.47. Turning from the effects of on-site construction plant working on the Main Site M1 and A45 highway improvements, we must consider the two other areas of construction which the Air Quality Chapter identifies, namely the construction of the Roade Bypass and the 'Other highway improvement measures'. There is no equivalent of Appx 9.11 for those.
- 6.5.48. The omission of any express assessment of the effects of on-site construction plant and traffic suggests to us that the Applicant has followed the proposition in the IAQM guidance quoted above that *"that they are unlikely to make a significant impact on local air quality, and in the vast majority of cases they will not need to be quantitatively assessed"*. However, we have no statement to that effect. We note that the air quality in and around Roade has been assessed for operational effects and none of the receptors shows an increase from the 2018 baseline figures for either NO₂ or PM₁₀ apart from RO9 which has an increase of 0.2 µg.m⁻³ in 2031 with the development. The baseline figures are well below the 40 µg.m⁻³ limit, the highest for NO₂ being 32.5 and the next highest being 28.1; the highest for PM₁₀ being 17.9. These data are to be found at Tables 9.25 and 9.26.
- 6.5.49. The locations of the receptors are shown on Figure 13 and they include West Lodge Cottages which are adjacent to Courteenhall Road, the junction of which is to be amended as part of Work No. 12. Again, and taking all these matters together, whilst it is unfortunate that there is no explicit assessment about this from the Applicant, we assume that there are no likely significant effects from such plant in the case of the Roade Bypass and the Courteenhall Road junction construction works.
- 6.5.50. In relation to the 'Other highway improvement measures' we are told at paragraph 9.5.36 that these are in Figures 9.3 and 9.4 which are respectively (i) the Junction 15A improvements (Works No 11) and (ii) improvements at Grafton Regis (Works No 17) and the C85 Pury Road junction improvement (Works No 15). We note that in the assessment of construction dust effects from these works the Applicant states at paragraphs 9.5.36 – 37 that these are small-scale improvements, of a minor nature (road widening or junction reconfiguration) and that a full construction phase assessment was not necessary; that the sites are in rural areas, away from
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large population centres and that they are a negligible risk for PM₁₀ health effects.

- 6.5.51. In addition, there is operational phase data for receptors in Grafton Regis – see Tables 9.33 and 9.34. The highest figure for NO₂ is 8.2 µg.m⁻³ in 2021 with or without the development. The highest figure for PM₁₀ is 17.8 µg.m⁻³ in 2031 with the development. The IAQM proposition quoted above in connection with the Roade Bypass may also be relevant here. Again, with the same regret, and taking all these matters together, we assume that there are no likely significant effects from such plant in the case of the Grafton Regis Works and C85 Pury Road junction improvement.
- 6.5.52. There is, in the case of the Junction 15A works, no data supplied for air quality effects during the operational phase. We note that the choice of areas for assessment of operational effects was made on the basis of changes to vehicle movements and air quality, and that methodology was agreed with NBC. We note also what the Applicant has said about scale and rurality and that the works are away from large population centres. We have also taken into account the information we can see on Figure 9.3 which shows construction phase receptors for the Junction 15A works. The IAQM proposition quoted above in connection with the Roade Bypass may also be relevant here. Again, with the same regret, and taking all these matters together we assume that there are no likely significant effects from such plant in the case of the case on Junction 15A.
- 6.5.53. This completes the consideration of all the works in the Construction Sectors for on-site plant and vehicle effects. In relation to off-site construction traffic, we note that the Applicant assessed the traffic effects on AQMA No 1 and AQMA No 5 which are adjacent to the M1 and A45 respectively, the results of which are shown in Appx 9.11 [APP-218], because the increase in the total number of daily HGV movements at these locations is expected to exceed the IAQM threshold for assessment. In relation to the Roade Bypass construction, as we note above, construction traffic is below the IAQM threshold for assessment and therefore the effect is negligible and temporary. Given that the “other highway improvement works” are more minor we conclude it is unlikely that the construction traffic for them exceeds the threshold for assessment either. Thus, the effects there are also likely to be negligible and temporary.
- 6.5.54. Intra-development effects from on-site construction plant and off-site construction traffic should be considered. Intra-development effects between the Main Site works, the Roade Bypass works and A508 corridor works were considered in relation to dust at paragraph 9.5.38 of the Air Quality Chapter. (With very few sensitive receptors within 350m of both sites and no identified receptors downwind and within 350m, the risk of intra-development dust impacts was considered negligible.)
- 6.5.55. Factors for NO₂ and PM₁₀ will be different from dust. We note that at paragraph 9.4.21 the Applicant observes that concentrations of NO₂ in Collingtree declined with distance from the M1, distances of about 132m (see Figure 9.6 and Table 9.7). There are relatively low background concentrations of PM₁₀ in the area (see Table 9.3 and paragraphs 9.4.4 and
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9.5.19). Given the much more considerable distances between the works, the IAQM guidance, background concentrations, the fact that the threshold for construction traffic assessment was only met in relation to AQMA No 1 and AQMA No 2 and movements on the M1/A45, and all other relevant matters, we assume that there are no likely significant intra-development effects from on-site construction plant and off-site construction traffic.

- 6.5.56. Lastly in relation to construction traffic, RC raised a concern in the context of air quality that *"it is not clear that the combined effects of [operational and construction] traffic have been addressed"* ([REP2-016] comment on the Applicant's reply to ExQ1.1.19). We have considered this carefully. The Applicant stated that construction traffic on key routes is too small to have a significant impact on air quality (its reply to ExQ1.1.19 in [REP1-020]. The construction traffic using the A508 is below the threshold for assessment. The scale of the "other highway improvement works" is less than the Roade Bypass. The effects on air quality of the construction traffic using the M1 and A45, as we have analysed the Applicant's data above are such that in our view the effects are negligible.
- 6.5.57. The Applicant's tables at Appx 9.11 show negligible effect for NO₂. When the proxy figures from Tables 9.16 and 9.18 for PM₁₀ are brought in the same conclusion is reached for PM₁₀. If one adds the (negligible) figures for construction traffic NO₂ in 2021 (chosen by the Applicant as the year with the most construction traffic) in Table 9.11.2. to the operational figures in Table 9.15 (NO₂ in the Collingtree / Northampton South SUE study area) the increases are never more than 0.1 µg.m⁻³, resulting in the highest reading at any receptor of 34.9 µg.m⁻³. This is also well below 40 µg.m⁻³. It is clearly negligible. There is a similar result for PM₁₀ in Table 9.16 (PM₁₀ in the Collingtree / Northampton South SUE study area) when one adds the (proxy) Table 9.16 increases. Applying the same approach to Tables 9.17 and 9.18 (NO₂ and PM₁₀ respectively in the AQMA No 5 Wootton Study Area) gives a similar result on the same basis.
- 6.5.58. We therefore conclude that if combined effects were not being considered, it appears likely to us that the effects are nonetheless negligible.
- 6.5.59. Whilst no mitigation is proposed in relation to vehicular and construction plant emissions, presumably following the conclusions at Appx 9.11, Table A9.11.3 (which states that *"the impact of both NO₂ and PM₁₀ emissions associated with traffic from the construction phase of the proposed development is predicted to be negligible"* and that *"the construction of the proposed development is expected to have an overall negligible impact"*) we note that the P-CEMPs can impose mitigation in relation to routeing (see section 14 of the CEMP [REP6-003]).
- 6.5.60. The second conclusion in Appx 9.11 states that the construction of the Proposed Development is expected to have an overall negligible impact.
- 6.5.61. Given our conclusions about on-site construction plant we would simply suggest that the P-CEMPs should require the proper maintenance of on-site plant with regard to emissions and that the choice of plant should not result in likely significant effects on air quality when assessed in accordance with

the principles in 'The Institute of Air Quality Management guidance on assessing dust emissions'. As we note above, that is the guidance used by the Applicant and it contains guidance on construction vehicular emissions. To this end a small amendment to Req 12 is considered necessary to make this clear. It has been included in the recommended DCO.

- 6.5.62. With all of the above in relation to on-site construction plant and traffic emissions, and construction traffic emission effects, the SoS may, however, wish to satisfy himself.

Policy

- 6.5.63. Does the Proposed Development meet the NPSNN requirements in relation to air quality?

- 6.5.64. One of the requirements is in paragraph 5.13 of the NPSNN which obliges the SoS to refuse consent if it would result in a compliant zone or agglomeration becoming non-compliant or would affect the ability of a non-compliant zone to become compliant within the most recent timescales reported to the European Commission. In the light of the fact that there are two receptors where levels of NO₂ are predicted to rise we raised this with the Applicant at ISH4. They are receptor CS1 in the Northampton AQMA No 2, 6 and 8 Study Area and SJ9 at the AQMA No 3 Study area. See Tables 9.21 and 9.23 of the Air Quality Chapter. The rise is 0.1 µg.m⁻³ in each case, causing a rise from 47.1 to 47.2 at AQMA No 2,6 and 8 Study area and from 40.1 to 40.2 at AQMA No 3 Study area.

- 6.5.65. The Applicant clarified that the zone is not the AQMA but the East Midlands zone, and that the increase is in both cases assessed as negligible. It was also pointed out that there would be improvements as well. We were satisfied with that. We also asked about the meaning of "agglomeration" in the NPSNN and the AQD. We were assured that Northampton does not qualify as an agglomeration for those purposes. We note also that the Figure 1.1 to Appx 8 of the Applicant's Post Hearing (ISH2) Submissions depicts the East Midlands Non-Agglomeration Zone and also shows Agglomerations. They are Leicester and Nottingham. For these reasons we agree that these matters are not circumstances which would require the SoS to refuse consent under paragraph 5.13.

- 6.5.66. Separately, the recent case of *R (oao) Shirley v. S of S for Housing Communities and Local Government [2019] EWCA Civ 22* (referred to above in the context of replies to ExQ2.1.34) shows that it is not compulsory to refuse permission for a development which may perpetuate or increase exceedances of limit values. To use this would be an exception to policy which would need to be justified.

- 6.5.67. With regards to the NPSNN, the Applicant volunteered a Position Statement on compliance with the paragraphs of the NPSNN under the heading "Air Quality" (paragraphs 5.7 – 5.17). It is at Appendix 2 of the Applicant's responses to ExQ2 [REP5-021] (electronic page 111 and following). It summarises and explains how those NPSNN policies are complied with. We

have considered that statement carefully and agree that the policies are complied with.

- 6.5.68. We are satisfied that the policies in the NPPF are met. The NPPG guidance is also met and of course it should be noted that the NPPG is practice guidance. In terms of the UK Air Quality Strategy there would no breach of the EU AQD. The development does not result in any breaches of the limits in the study zone AQMAs, save for two receptors. The increases due to the development in those cases, are of NO₂. They are 0.1µg.m⁻³ in each case in 2021 taking the levels to 47.2 µg.m⁻³ at receptor CS1 in the AQMA 2, 6, and 8 study area and 40.2 µg.m⁻³ at receptor SJ9 in the AQMA No3 study area. These are negligible effects. They resolve to less than 40 µg.m⁻³ in 2031. We questioned the Applicant about their relation to the AQD limits and the NPSNN and we are satisfied with its response that they do not cause a breach of those standards.
- 6.5.69. In terms of other planning policies, the relevant policies of the WNJCS identified in this section are met. Whether policy G3 of the South Northamptonshire Local Plan 1997 is met is a balance and judgment question and in our view it is.
- 6.5.70. The Applicant drew attention to Theme 3 of the Northampton Low Emissions Strategy which, as noted above, gives examples of actions which can be taken. This is not part of the development plan. There are six examples. One of those, incorporating facilities for low emissions vehicles, such as electric charging points and minimum emission standards for fleet vehicles is met. So is the example of encouraging more freight to be transported by rail.
- 6.5.71. We turn to the Northamptonshire Transportation Plan, also not part of the development plan. We set out the parts extracted by the Applicant at the policy section of this chapter. In terms of net gain in biodiversity value, we refer to our conclusion at 5.6.44 of this report on biodiversity, ecology and natural environment. Mitigation would include substantive net gains in woodland, structural and shrub planting, water features, non-agricultural grassland and hedgerows. The three high-level thematic outcomes underpin the Northamptonshire Arc. These are: Transformed connectivity; a naturally Resilient and Low Carbon Northamptonshire; a stronger and greener economy. Arguably, the overall scheme contributes to these.
- 6.5.72. In relation to design and protection and enhancement of the natural environment there are inevitable impacts but these have been addressed elsewhere in this report. There are no likely significant impacts on any European sites. Table 9.35 of the Air Quality Chapter shows that in the most part the air quality effects are negligible, with two slight adverse effects and three slight beneficial. Table 9.36 shows that between 2021 and 2035 NO_x emissions are estimated to have reduced by 469.1 tonnes and PM₁₀ by 122.9 tonnes. Without examining the meaning of the phrase 'air quality neutral' in the Northamptonshire Transportation Plan, we think this shows the development is at least neutral.

6.6. CONCLUSIONS

6.6.1. Although not every RR, WR, and submission to us (and there were many) has been mentioned they have all been considered and taken into account in our consideration and in reaching these conclusions.

6.6.2. We conclude that the environmental impact assessment is adequate to allow the SoS to comply with the requirements of the NPSNN. We agree with the Applicant's assessment of the environmental effects at section 9.9 of the Air Quality Chapter, namely:

- the Proposed Development is anticipated to have negligible impact on annual PM₁₀ concentrations;
- the Proposed Development is anticipated to have negligible impact on annual NO₂ concentrations in most study areas with some locally significant but temporary impacts in 2021 and the interim period. To this we would add reference to the negligible increases above the limit values at two receptors in study areas AQMA 2, 6, 8 and study area AQMA 3;
- the Proposed Development is predicted to have slight adverse impact on annual mean NO₂ concentrations in AQMA No 4 in 2021 and the interim period and slight beneficial in AQMA 3 in 2021;
- the impacts on those two areas would by 2031 be negligible;
- the implementation of the Roade Bypass brings about slight beneficial impacts for NO₂;
- there would be no non-compliance or delay to compliance of the UK National Plan or EU AQD limits;
- there is predicted to be a 469.1 tonne reduction in NO_x emissions and 122.9 tonne reduction in PM₁₀ emissions between 2021 and 2035; and
- there would be other beneficial effects from the Travel Plan, but no account was taken of this in the assessment.

6.6.3. We would add, though it is not mentioned in the Air Quality Chapter nor its conclusion, and therefore not taken into account in assessing impacts, that an air quality contribution (to further the aims of NBC's Low Emissions Strategy) is made under the s106 agreement bearing in mind that there would be some trip increases within Northampton AQMA, to assist NBC in implementing its low emissions strategy.

6.6.4. There is one qualification to this, namely in relation to off-site construction traffic and on-site construction plant and construction traffic. However, having considered those matters as set out above (including our recommendation of an amendment to Req 12) we are satisfied that it is unlikely there are any significant effects that would arise from them. We nonetheless draw the SoS's attention to our suggestion that he may however wish to satisfy himself on that issue.

6.6.5. Our overall conclusions on air quality are:

- The Air Quality Directive (Council Directive 2008/50/EU) (defined above as 'AQD'). There would be no non-compliance or delay to compliance of the UK National Plan or EU AQD limits.

- Effects on AQMAs. There are negligible effects in the great majority of cases with only slight adverse effect in the case of AQMA 4 in 2021 and the interim. Thereafter effects are negligible. There are increases over the $40 \mu\text{g.m}^{-3}$ annual mean for NO_2 in 2021 at only two receptors and that increase is negligible at only $0.1 \mu\text{g.m}^{-3}$. It drops to below $40 \mu\text{g.m}^{-3}$ in 2031.
- $\text{PM}_{2.5}$. There is no statutory obligation to achieve the annual mean objective for $\text{PM}_{2.5}$ in England. $\text{PM}_{2.5}$ is not monitored in NBC nor SNC. It was scoped out of the assessment in consultation with NBC. It is valid therefore not to have addressed it in the ES.
- Effects on Collingtree. We have considered this carefully and are satisfied considering all the evidence before us that the Applicant has properly assessed the effects.
- Effects on the village of Roade. Paragraphs 9.5.116 – 9.5.132 and Tables 9.25 and 9.26 show that the position is a little complex, partly due to the time when the Roade Bypass would come on stream. Table 9.35 brings matters together with an assessment of negligible effect save in the interim period and in 2031 when it would be slight beneficial for NO_2 only.
- Cumulative effects with Rail Central – these cannot be dealt with owing to the uncertainty with regard to RC's data.

7. FINDINGS AND CONCLUSIONS IN RELATION TO OTHER PLANNING ISSUES

7.1. SOCIO-ECONOMICS

Introduction

- 7.1.1. This section addresses the socio-economic effects of the Proposed Development.

Policy Considerations

- 7.1.2. Section 5 of the NPSNN contains information about generic impacts and focuses on a range of environmental impacts and issues. It does not contain specific guidance on assessing socio-economic impacts as part of the application process. However, at paragraph 4.3, the NPSNN states that any proposed development should *"take into account its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long term or wider developments"*.
- 7.1.3. The NPSNN is, however, clear about the economic role and importance of SRFIs and recognises that the existence of an available and economic workforce will be an important consideration for the applicant of a SRFI. Paragraph 2.52 of the NPSNN acknowledges the benefits that SRFIs can bring to a local economy but also identifies that *"the availability of a suitable workforce will therefore be an important consideration"*. In addition, SRFIs have the potential to affect the health, well-being and quality of life of the population.
- 7.1.4. At a local level, the WNJCS did not allocate any additional land for SRFI capacity beyond that approved at DIRFT. However, at paragraph 5.72 of the WNJCS reference is made to the intention to work with Network Rail and the freight industry to *"consider and support further sustainable opportunities for rail freight interchanges in the longer term"*.
- 7.1.5. Policy S7 of the WNJCS indicates that *"provision will be made for a minimum net increase of 28,500 jobs in the period 2008-2029 in order to maintain a broad balance between homes and jobs and to maintain a diverse economic base"*.
- 7.1.6. The South Northampton Council Economic Development Strategy (SNCEDs) was adopted in 2016 and sets out economic development priorities, which are based on four themes:
- improved skills and employment;
 - effective business support;
 - strengthening town and village economies; and
 - supporting visitor economies.
- 7.1.7. Actions are set out for each of the four themes. Those of most relevance to the Proposed Development include:
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- ensuring the delivery of new strategic employment sites;
- working with partners to prepare young people for work and retain future workforce by increasing take up of apprenticeships across the district for all ages;
- building on locational advantage to grow the logistics sector while protecting what is special about the District by enabling growth in appropriate locations around the M1;
- working with local logistics businesses to ensure vacancies can be filled through the SNC Job Club and Job Match Service; and
- addressing the logistics skills issues through partnership with resources outside the District.

7.1.8. The Proposed Development is located within the South East Midlands Local Economic Partnership (SEMLEP). Paragraph 3.2.10 of ES Chapter 3 [APP-082] states that the SEMLEP *"emphasises the importance of economic growth, where the next challenge for the LEP area is to increase growth in key sectors in conjunction with development of suitably skilled workforce."*

7.1.9. As detailed within the SoCG with NBC [REP1-014], in 2017 SEMLEP published a revised Strategic Economic Plan which identified appropriate employment land and transport infrastructure as being critical for the continued success and growth of the logistics sector. Furthermore, SEMLEP also commissioned a Logistics Sector report, which identified three key areas which would assist in improving economic wellbeing within the region:

- attracting new recruits into the logistics industry;
- the need to develop people and skills; and
- the provision of support in skills training within the logistics sector.

The Applicant's Case

7.1.10. ES Chapter 3 examines socio-economics [APP-082] and whilst not forming a technical appendix to the ES chapter, is supported by the Market Analysis Report [REP1-004]. The approach taken to assessment is summarised within section 3.3 of the ES chapter and confirms that the Study Area used for the assessment comprises six local authority areas.

Employment – operation and construction

7.1.11. Construction of the Proposed Development is anticipated to last five years, with activities expected to commence in 2020. The employment requirements during construction would vary from managerial roles to manual labour, with the numbers of roles varying depending on the nature of work carried out during each phase of construction.

7.1.12. Over the whole of the construction period, taking a displacement figure of 10% into consideration, 108 full time equivalent (FTE) construction jobs would be generated, with a further 31 FTE jobs being supported indirectly. Therefore, the total number of FTE jobs during the construction period would equate to 139. Accepting that the construction period is short term, the significance of the 139 temporary construction jobs is considered minor beneficial.

- 7.1.13. As the effect on construction employment is minor beneficial, no specific mitigation measures are deemed necessary. However, the Applicant proposes several enhancement measures, with the aim of benefiting both local businesses and communities. Such measures include:
- use of local sourcing wherever possible;
 - a recruitment / training programme, focusing on South Northamptonshire Job Clubs;
 - advertising jobs using Universal JobMatch;
 - liaison with JobCentre Plus in locations where deprivation has been identified; and
 - training opportunities and apprenticeships with local colleges and training centres.
- 7.1.14. Such measures would be secured by Req 28 of the dDCO and would be in place prior to the commencement of construction activities and would need to be approved by the relevant LPA.
- 7.1.15. In terms of the operational phase, the assessment undertaken by the Applicant confirms that the Proposed Development would provide direct employment for 7,544 FTE jobs. Taking leakage and displacement effects into consideration, the net effect of the Proposed Development within the Study Area is the equivalent of 7,332 FTE jobs. Further detail regarding the calculations is contained in Table 3.10 of ES Chapter 3 [APP-082].
- 7.1.16. The occupation of the Proposed Development is planned to commence in 2021/2022 through to 2025/2026. Due to the phased occupation, it is anticipated that approximately 1,000 people would be employed in the first year, with a subsequent increase of 1,000 each year through to 2026.
- 7.1.17. Training and development within the logistics sector has historically been low. Whilst figures are increasing within the sector, to ensure the continued provision of relevant training, Req 28 of the dDCO requires that prior to the first occupation of warehousing, an employment scheme in respect of employees to be employed within each warehouse is submitted and approved by the relevant LPA. Part of this scheme would detail how training opportunities would be provided for employees.
- 7.1.18. Gross Value Added (GVA) is a measure of the contribution to the economy as a result of a business or industry. The GVA figure per filled job for 2018 is £47,148. As a result of the potential 7,332 jobs, the overall GVA that could be added into the economy each year due to the Proposed Development would equate to £345 million per annum.
- 7.1.19. The impact of the Proposed Development in respect of operational employment upon completion is a major beneficial effect over the long term. As such, it is therefore of major significance.

Commuting

- 7.1.20. The baseline survey data illustrates that within the Study Area net commuting flows for South Northamptonshire are mainly out of the area, with Daventry being the only area which has a small net flow into the Study

Area. The flow data show that Northampton and Milton Keynes are the key areas of employment. The highest level of movements into both Milton Keynes and Northampton originate from South Northamptonshire.

- 7.1.21. In terms of the Proposed Development, the Transport Assessment [APP-231] confirms the likely areas where trips associated with the development would commence. The Transport Assessment found that 40% of the commuting would originate from the Northampton area and area to the north-east, 25% from the north-west, 20% from the area to the south-east and 10% from the South Northamptonshire area.
- 7.1.22. Consequently, the change in commuting patterns within the Study Area is anticipated to reduce the level of net outward movements from South Northampton to Northampton and Milton Keynes and from Northampton to Milton Keynes.
- 7.1.23. In addition, the implementation of both the Framework Travel Plan (FTP) [APP-232] and the Public Transport Strategy (PTS) [APP-233] aim to enhance and promote sustainable travel facilities at the Main Site to ensure that staff have reasonable alternatives to the private car for their journey to work. Such measures would, amongst other things, include:
- the development of a new bus service to serve the site to offer direct access between the site and Northampton town centre;
 - a new footpath / cycleway adjacent to the A508 running south to Roade;
 - diversion of existing public rights of way to provide a traffic-free route around the perimeter of the site;
 - access from the perimeter footpath / cycleway into the centre of the site;
 - shared pedestrian and cycle paths along both sides of the spine road; and
 - secure cycle parking at each unit.
- 7.1.24. Such measures would be secured by Req 4 of the dDCO and would commence prior to the occupation of each warehouse.
- 7.1.25. The impact of the Proposed Development in respect of commuting is considered of minor beneficial effect and therefore of minor significance.

Housing Demand

- 7.1.26. During the period 2021-2026, housing delivery across the Study Area is anticipated to be 5,600 new dwellings per annum. The supply of 5,600 new dwellings per annum is estimated to accommodate 13,400 people, of which, 7,163 people would be economically active and added to the existing workforce each year.
- 7.1.27. As a result of the level of planned housing supply within the Study Area, it is considered that enough housing would be available to deal with any additional demand arising from the Proposed Development. Accordingly, the impact on housing demand is considered negligible.

Aggregates Facility / Terminal

- 7.1.28. Galliford Road Stone Ltd (GRS) is an aggregate company working within Northampton for over 40 years and has, for the last 15 years, operated from premises at the railhead in the centre of Northampton. Most of its materials are brought in by rail and it has previously moved between 225,000 to 400,000 tonnes per year.
- 7.1.29. As detailed within the submitted Planning Statement [APP-376], GRS has confirmed that its current site is constrained, which is limiting the growth and efficient operation of its business. As such, and subject to development consent, GRS has signed an Agreement to Lease in order to operate part of the rail terminal as an aggregates facility / terminal, with dedicated sidings.
- 7.1.30. GRS has confirmed in Appendix 3 of the Planning Statement that the site would *"meet all of the requirements of GRS's operation, with excellent rail access, appropriate on-site facilities and expansion space and access to the strategic road network"*.
- 7.1.31. The new location for GRS would move a large-scale aggregates company from a location which is in proximity to residential dwellings and would also remove a number of HGVs from Northampton town centre. It is also understood that there may be opportunities for the site to be redeveloped for housing and additional car parking for the station.

Health and Well-being

- 7.1.32. As detailed at paragraph 3.4.28 of ES Chapter 3 [APP-082], the health of the majority of residents within the Study Area was identified as being good or very good health, with the percentage of those in bad health being lower than the national average.
- 7.1.33. Health is influenced by several factors with employment, and the nature of employment, being one such influence. The Proposed Development also has the potential to reduce levels of deprivation within the Study Area. This is of particular relevance for Northampton, which is within the most deprived third of LPAs within England. As Northampton is the area where the highest number of employees are likely to be resident, the financial benefits of employment could contribute to the overall health and well-being of employees.
- 7.1.34. The new footpath and cycleway infrastructure proposed on and around the site would be of benefit to employees in terms of improving health. Pedestrian and cycle access from Collingtree over the M1 to link with the new routes on the site would also provide health and well-being benefits to both employees and residents alike. In addition, footpaths between the Proposed Development and Roade are also to be improved.
- 7.1.35. The impact of the Proposed Development in respect of health and well-being is considered to have an indirect beneficial effect for those individuals who take up employment or use the new or improved footpaths and cycleways.

- 7.1.36. Air quality improvements due to the Bypass Corridor are also listed as potential health benefits to the residents of Milton Malsor, Blisworth and Roade. However, as identified within the ES Air Quality Chapter [REP5-021] p119 ff, such benefits would only be negligible to slightly beneficial.

Business Rates

- 7.1.37. Business rates are a tax on property uses for business purposes and are therefore charged on most non-domestic properties. They are collected by a local council and contribute towards the costs of local services. Business rates are calculated based on a property's rateable value. The rateable value is a property's estimated value on the open market.
- 7.1.38. Depending on the confirmed rating valuations, the Proposed Development could create £12-13 million per annum. Currently, 50% of the business rates go to central government, with the remaining 50% being split between the County Council and relevant District Council.
- 7.1.39. It is not possible to confirm the business rates payable to the local authorities at this stage. Nevertheless, it is entirely feasible that the business rates associated with the Proposed Development could deliver a substantial annual revenue to them.

Community Liaison Group and Community Fund

- 7.1.40. Req 29 of the dDCO requires the establishment of a Community Liaison Group (CLG). Such a group is to commence prior to the start of development with the aim of providing liaison between the following parties:
- the undertaker of the development;
 - relevant planning authorities;
 - relevant highway authorities;
 - representatives from the parish councils of Roade, Blisworth, Milton Malsor and Collingtree; and
 - any other stakeholders that the relevant planning authorities wish to be included.
- 7.1.41. The aim of the CLG is to provide a forum for discussion between the undertaker and the local community. The CLG would provide an opportunity for communities to raise questions or concerns through the relevant representative and for the undertaker to provide responses. The lifetime of the CLG would extend for five years from the full occupation.
- 7.1.42. As discussed in Chapter 11 of this Report, and noting the findings in relation to the Community Fund, a s106 agreement [REP6-048] was made on 28 March 2019 in relation to the Community Fund. The Community Fund would provide a contribution of £300,000, payable by the landowners to the District Council. The Community Fund would be used for Qualifying Projects, having regard to the wishes of the Community Liaison Group. The Qualifying Projects are those which would improve the physical realm, enhance nature conservation interests or improve the physical environment.

Cumulative Issues

- 7.1.43. During the Examination consideration was given to the potential cumulative impacts of both the Proposed Development, approved or committed developments, and the neighbouring RC project.
- 7.1.44. As detailed in section 3.9 of ES Chapter 3 [APP-082], the following residential-based commitments have been taken into consideration in terms of cumulative effects:
- Northampton South SUE (1,000 dwellings);
 - Northampton South of Brackmills SUE (1,000 dwellings);
 - Northampton West SUE (2,500 dwellings);
 - Northampton Upton Park SUE (1,000 dwellings);
 - Northampton Norwood Farm/Upton Lodge SUE (3,500); and
 - Towcester South SUE (2,750 dwellings and 1,100 jobs).
- 7.1.45. Employment-based commitments include:
- Northampton Junction 16 Strategic Employment Site (4,550 jobs);
 - Daventry International Rail Freight Terminal Phase 3 (DIRFT) (7,700 jobs); and
 - Silverstone Circuit employment land (7,000 jobs).
- 7.1.46. The SUEs would contribute towards the housing delivery projections for the six LPAs within the Study Area to provide approximately 28,000 new dwellings between 2021 to 2026. Population growth in the period to 2026 within South Northamptonshire and Northampton is anticipated to be 64,400, with 42,000 people being of working age.
- 7.1.47. In terms of the level of jobs to be generated within the Study Area, the residents of working age from the new dwellings would add to the available workforce within the locality. Combined with the Proposed Development, the employment-based commitments have the potential to generate over 28,000 jobs to 2026.
- 7.1.48. At the time of the close of the Examination into Proposed Development, the RC examination had yet to commence. As such, it does not represent a committed development. However, the cumulative work undertaken by the Applicant concludes that the RC Project could deliver approximately 8,100 jobs.
- 7.1.49. The Applicant contends that the cumulative effect of both the Proposed Development and the RC Project, if both were consented and constructed, would be positive in socio-economic terms over a long-term period.

Planning Issues

- 7.1.50. In its LIR SNC [REP1-037], at paragraph 49, notes that the Proposed Development offers *“the potential to secure objectives of the NSPNN and the Council’s strategy for economic growth and offer positive economic benefits for South Northamptonshire and wider area”*. Furthermore, it is noted that the *“development would bring a range of new employment opportunities and*

provide a significant number of jobs and improvements to the transport network”.

- 7.1.51. However, at paragraph 52, it is also identified that the Proposed Development could also result in issues for the local labour pool as there is a risk that recruitment demand could outstrip supply. This would have the potential to create difficulties for existing local businesses. At the same time, paragraph 57 notes that the issue of providing large amounts of distribution space over the longer term could also have a *“negative impact on the perceived quality of place and the availability of labour”*.
- 7.1.52. As with the SNC LIR, at paragraph 7.3 the NBC LIR [REP1-089] identifies that the *“proposed development would assist in delivering the objective set out in the National Policy Statement for National Networks, 2014. It would also help to deliver the Council’s Corporate Plan objective to facilitate economic growth, by providing jobs that could be easily accessed from Northampton”*.
- 7.1.53. However, the potential issue of generating more employment than the local labour market could supply, possibly leading to an increase in net-in commuting is noted at paragraph 7.5. Along with the issues this may bring to local businesses, congestion on local road networks and an increase in housing demand may also occur.
- 7.1.54. A significant number of RRs and WRs were received regarding the socio-economic effects of the Proposed Development. Representations received included concerns on the following matters:
- proximity of existing SRFIs;
 - increased crime levels;
 - existing low levels of unemployment within the region and therefore the need to attract employees from further afield;
 - increased demand for housing;
 - footpath diversions would result in routes becoming less attractive to users;
 - adverse impact in terms of noise, light and air pollution for surrounding villages;
 - limitations of population forecasts used within the assessment; and
 - power supply to the Proposed Development.
- 7.1.55. In the SoCG with NBC [REP1-014] the potential opportunities for training and skills initiatives are recognised and how such activities could further boost potential local economic benefits. Whilst acknowledging that the application site is not allocated for such development, at paragraph 7.4 NBC notes the contribution the Proposed Development could make in helping to achieve the following objectives as set out in the WNJCS:
- Objective 1 – Climate Change;
 - Objective 2 – Infrastructure and Development;
 - Objective 3 – Connections; and
 - Objective 8 – Economic Advantage.

- 7.1.56. In general, NBC sees that the Proposed Development could have positive socio-economic impacts and that it meets the site location criteria contained within the NPSNN. NBC considers the main local level benefits to be:
- creation of approximately 7,400 jobs;
 - improvements to public transport connectivity;
 - possible reversal of outward commuting; and
 - contribution to supporting and delivering sustainable economic growth of one of the region's key sectors.
- 7.1.57. The SoCG [AS-006] with NCC records that the proposed Highway Mitigation Works, including the Bypass Corridor, are supported by the Council. Such proposals would alleviate existing and any future capacity issues at junctions. At paragraph 3.17, NCC further states that "*...the mitigation works would contribute positively to the enhanced operation of the highway network.*" In conclusion, NCC acknowledges the benefits of the Proposed Development in terms of economic investment, job creation and productivity.
- 7.1.58. The SoCG with NCC was dated July 2018. However, following a full Council meeting on 28 February 2019, NCC passed a resolution in relation to both the Proposed Development and the RC project [REP6-035]. The resolution stated that NCC "*expresses deep concern regarding the suitability of the sites in question and the potential impact of the proposals on local residents*".
- 7.1.59. The resolution concluded stating that "*This Council, therefore, resolves to write to the Secretary of State for Transport to formally express its opposition to the two proposals*".

The ExA's Considerations

- 7.1.60. Through both its initial written questions [PD-007], Further written questions [PD-010] and discussions during ISHs, we sought to query and clarify various aspects of the assessment of the socio-economic effects of the Proposed Development as set out in Chapter 3 of the ES [APP-082].
- 7.1.61. Concern was raised regarding deficiencies in the assessment undertaken by the Applicant, due to the use of gross population figures [RR-242], [REP1-065] and [REP4-019]. Following discussions at ISH2, and further information supplied by the Applicant [REP4-011], we are satisfied that the proportion of working age people has been taken into consideration within the baseline section of the assessment.
- 7.1.62. Furthermore, the assessment includes six local authority areas and factors such as the low rate of unemployment, population growth and net out-commuting patterns have also been considered throughout the assessment.
- 7.1.63. The issue of whether the correct GVA for the logistics sector has been used within the assessment was also raised [REP1-092]. It is noted that the Office for National Statistics (ONS) considers that GVA Per Hour Worked or

GVA Per Filled Job is an appropriate measure of both regional and sub-regional productivity⁵³.

- 7.1.64. The use of GVA Per Head of Population includes a count of the whole population and would fail to take the impact of commuting into consideration. The Applicant does, however, acknowledge that the use of the GVA Per Filled Job figure will show a higher figure than that for the GVA Per Head of Population.
- 7.1.65. As a result of answers and clarification provided, whilst having careful regard to the criticisms made relating to population and GVA figures, the ExA is satisfied that the assessment undertaken is sufficiently robust to provide meaningful outputs that can be relied upon.
- 7.1.66. The criticisms raised by RC in respect of the consultation relating to the human health assessment is acknowledged [REP3-016]. The Consultation Report [APP-304] submitted as part of the Application confirms consultation was undertaken with Public Health England, environmental health officers at SNC and NBC, NHS bodies and the HSE.
- 7.1.67. ES Chapter 3 [APP-082] provides an assessment of the likely impacts of the Proposed Development on human health. In addition, Chapter 15 of the ES [APP-123] also provides an overview of combined health issues. On the basis of the consultation and assessments undertaken, the ExA is satisfied that the approach taken in relation to potential impacts on human health is adequate.
- 7.1.68. Several representations, including [RR-119], [RR-031], [RR-469], [REP1-087] and [REP1-039], raised the issue of a shortage of labour force as a consequence of low levels of unemployment within the Study Area.
- 7.1.69. At the time of the assessment, the national average for unemployment claimants was 2.3%. South Northamptonshire has a low level of unemployment, with only 0.7% of the economically-active population claiming benefits. However, in terms of the wider Study Area, at 1.9% the Northampton area is closer to the national picture. The nearby areas of Kettering and Wellingborough also have similar unemployment rates as Northampton.
- 7.1.70. Average earnings are also above the national average in South Northamptonshire. However, the Applicant's assessment confirmed that this is not the case in Northampton. In addition, both South Northamptonshire and Northampton have significant levels of net outflows of people commuting to jobs elsewhere. Therefore, in terms of wider employment issues, the Study Area provides a more mixed picture than that depicted by figures from South Northamptonshire in isolation.

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/labourproductivity/articles/regionalandsubregionalproductivityintheuk/jan2017>

- 7.1.71. There is no doubt that the sub-region is well represented with national and regional distribution centres and that the logistics sector accounts for a higher proportion of employment than seen at a national level. DIRFT, which is the largest SRFI in the UK, is located at Junction 18 of the M1, approximately 29 km miles from the Proposed Development.
- 7.1.72. The ExA's attention has been drawn to the fact that several existing logistics companies within the region have on-going recruitment opportunities, particularly for HGV drivers and warehouse operatives. Consequently, the issue of whether the Study Area has a sufficiently large enough available workforce to fill the jobs generated by the Proposed Development and whether such jobs would be filled from individuals commuting in from outside the Study Area is noted.
- 7.1.73. From the findings of the assessment, it is evident that the provision of new jobs would be filled through a variety of avenues, including those who change jobs; those who have reached employment age; those who have opted to undergo re-training; those who have moved into the area; and those who would commute.
- 7.1.74. Between 2021-2026, housing delivery within the Study Area is expected to be approximately 5,600 new dwellings per annum. This would equate to just over 7,000 people being added to the workforce each year. At the same time, the current unemployment estimates provided by ONS in November 2018 [REP4-011] indicate that there are approximately 17,000 unemployed people within the Study Area. It would be unrealistic to assume that all these individuals would be willing or able to fill the generated jobs. However, with the necessary training and support, it would be possible to add to the required workforce from this pool.
- 7.1.75. As with housing delivery, the employment requirements would also be gradual. There would be approximately 1,000 job opportunities each year, commencing in 2021 through to completion in 2026.
- 7.1.76. We accept that the Proposed Development would attract a percentage of individuals who are from outside the Study Area and would commute. This led to several concerns in terms of increased congestion and level of emissions, including representations from Mr Trevor Pinfold [REP1-081] and NBC [REP1-088].
- 7.1.77. From the evidence provided, the Proposed Development would provide opportunities for those currently unemployed within the Study Area and new jobs for those which are closer to home. The Proposed Development therefore has the potential to reduce existing levels of net outward commuting. In addition, the Bypass Corridor, other highway mitigation measures and the PTS, would further assist in reducing congestion and associated emission levels.
- 7.1.78. At the time of writing, the situation regarding Brexit remained uncertain. Following the submission of the Applicant's post hearing-submissions reference was made to a GOV.UK article regarding EU, EEA and Commonwealth citizens living in the UK and what will happen if the UK

leaves the EU. The article states that *"The UK government has reached an agreement with the EU that will protect the rights of EU citizens and their family members living in the UK. It has also reached an agreement with Norway, Iceland and Liechtenstein, and a separate agreement with Switzerland. These agreements mean that most citizens from the EU, Norway, Iceland, Liechtenstein and Switzerland will need to apply to stay in the UK. They can then continue living their lives here as they do now"*. Despite this, the position on Brexit remains unresolved and it will be a matter for the SoS to consider the situation at the time of the decision.

- 7.1.79. The ExA accepts that the logistics sector already accounts for a high proportion of employment within the region. Nonetheless, the Proposed Development would provide significant employment opportunities within the Study Area. Through the introduction of measures such as appropriate training, planned and committed housing delivery, highway mitigation works and the utilisation of current unemployed individuals, it is considered that the Study Area would be able to provide an adequate pool of workers to gradually fill both the construction and operational employment opportunities.
- 7.1.80. A number of representations referred to increased crime statistics in the areas surrounding DIRFT [REP1-061] and [REP1-063], stating concern that villages surrounding the Proposed Development would experience similar crime increases. Specific reference was made to an increase in vehicle interference [REP1-061].
- 7.1.81. It is appreciated that local residents have genuine concerns about the potential for an increase in crime and anti-social behaviour. Such concerns were directly addressed by the Applicant following consultation with local police during the pre-application consultation stages. It is noted within the closing remarks made by Blisworth Parish Council [REP7-013] that in a meeting with Northamptonshire Police it was confirmed that the use of automatic number plate recognition would not be used to control traffic, rather that the cameras would be used to detect the presence of known criminals.
- 7.1.82. Furthermore, a dedicated HGV park forms part of the Proposed Development. The park would provide secure parking for approximately 120 vehicles and welfare facilities for drivers. This would thereby reduce the need to park on roads and laybys surrounding the site and the opportunity for vehicle crime.
- 7.1.83. The commitment by GRS to re-locate its business to the site demonstrates the suitability of part of the site as an aggregates facility / terminal. Furthermore, the re-location of the facility would reduce HGV movements within Northampton town centre and the potential expansion opportunities would also deliver small-scale employment opportunities. The potential re-development opportunities for the site are noted, however this would be subject to the relevant approvals and, as such, we afford it limited weight.
- 7.1.84. The implications of the Proposed Development in terms of health and well-being was raised in several representations, including [RR-556], [RR-112]

and [REP1-123]. Many of the representations focused on the issue of air pollution and the implications of this on residents. Air Quality issues are discussed in Chapter 6 of this Report and it is concluded that, subject to an amendment which the ExA proposes in the recommended dDCO to Req 12(1), there are no air quality issues which would lead to refusal of consent.

- 7.1.85. In more general terms, the ExA agrees with the findings of the Applicant's assessment insofar as employment contributes to health and well-being and can also reduce levels of deprivation. This would be of significant benefit to Northampton which, whilst being in the most deprived third of LPAs in England, is also anticipated to provide the highest percentage of future employees.
- 7.1.86. We recognise the concerns that have been expressed locally about possible impacts to users of both the existing footpaths and bridleways. Representations were made regarding the increase in length of footpath KX13 [REP1-054] which connects the villages of Milton Malsor and Blisworth to Collingtree, and bridleway RZ1 [REP1-069] which link the villages of Roade and Stoke Bruerne. The increase in distance and reduction in amenity value are acknowledged and further discussed in section 7.2 of this Report.
- 7.1.87. The SoCG with NCC [REP1-009] and HE [REP1-005], confirms that with appropriate mitigation measures place, both parties support the Highway Mitigation works, including the Roade Bypass Corridor.
- 7.1.88. Whilst acknowledging the potential loss of views and amenity values on some of the footpaths and bridleways, the Highway Mitigation works would reduce traffic flows on many of the local roads used by cyclists, pedestrians and horse riders. For example, on the A508 and A45, new off-road routes would be provided allowing cyclists to be segregated from traffic. Whilst concern has been raised regarding the use of an underpass on bridleway RZ1, no evidence has been provided confirming that this facility would pose a health and safety risk to riders or horses. In addition, the use of an underpass is not uncommon on bridleways and provides a safer alternative to having to cross a road.
- 7.1.89. The provision of cycle routes and improved footpaths would provide alternative options for travel to work by employees of the Proposed Development. Whilst acknowledging the reduction in, and considerable change of, views on the surrounding footpaths, the facilities would still allow for walking to and from the site and to / from nearby communities. The use of such facilities would have an indirect positive impact regarding health and well-being for both future employees and local residents alike who would also make use of the routes.
- 7.1.90. Questions regarding electricity capacity in the network to supply the Proposed Development was an issue raised by a small number of parties, including [REP2-017] and [RR-033]. It is recognised that Northampton is considered a growth area, with the need for significant investment in the electricity supply infrastructure. It is understood that the Applicant has secured a point of connection offer that would provide electrical capacity to supply the entire Proposed Development [REP7-007].

- 7.1.91. Regarding cumulative effects in respect of the RC proposal and the fact that its Examination would not start before December 2019, we consider any socio-economic cumulative impacts would be more appropriately considered within the context of that Examination and in light of circumstances pertaining at that time. Nonetheless, in responding to the Applicant's UCIA [REP5-026], RC indicates its belief that there would be no significant adverse socio-economic effects from the two projects in combination.
- 7.1.92. As previously commented on, as part of the s106 agreement, a Community Fund is provided for, which would deliver £300,000 to the District Council in respect of Qualifying Projects. However, as detailed in section 11.4 of Chapter 11 of this Report, it is our view that the proposed Community Fund does not meet the criterion of necessity as detailed in paragraph 4.10 of the NPSNN. As no impact is identified to which it is to relate, the Community Fund is not found to be necessary. It is also impossible to apply the test of 'fair and reasonable relation in scale and kind' as also detailed in paragraph 4.10. As such, no reliance has been placed on the Community Fund.
- 7.1.93. Despite this, even without the Community Fund, the ExA concludes that the socio-economic benefits would weigh strongly in favour of the Proposed Development. This is because of the significant number of jobs that would be created during both construction and operational phases.

Conclusion on Socio-Economics

- 7.1.94. We draw to the SoS's attention the need to form a conclusion on the effect of Brexit on labour supply, as set out above.
- 7.1.95. Taking all relevant documents and policies into account, the ExA concludes that:
- the Proposed Development would secure significant employment opportunities both during construction and operation;
 - significant economic benefits would be delivered within the Study Area due to the Proposed Development, including GVA and business rate retention;
 - there would be a minor beneficial effect on health and well-being and the impacts on housing demand would be broadly neutral;
 - the Proposed Development would contribute to the delivery of several of the aspirations and objectives identified for the region by SEMLEP; and
 - due to the significant benefits in terms of potential employment creation, the Proposed Development is compliant with paragraph 2.52 of the NPSNN and the economic development priorities contained within the SNCEDS.

7.2. LANDSCAPE AND VISUAL IMPACTS

Introduction

- 7.2.1. This section addresses the landscape and visual impacts of the Proposed Development. Within this section consideration is also given to the impacts

on public rights of way (PRoW) which are affected by development on the Main Site.

Policy Considerations

- 7.2.2. NPSNN paragraph 5.149 notes that landscape effects depend on the nature of the existing landscape and the nature of the effect likely to occur. Both factors need to be considered in judging the impact of a project. It further requires projects to be carefully designed and, having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.
- 7.2.3. The SoS should judge whether the visual effects on sensitive receptors, such as local residents, outweigh the benefits of the development (para 5.158). Paragraphs 5.159 to 5.161 set out mitigation considerations, with paragraph 5.160 noting that adverse landscape and visual effects may be minimised through appropriate siting of infrastructure, design (including choice of materials) and landscaping schemes. Materials and design for infrastructure should always be given careful consideration.
- 7.2.4. Because of the locational requirements for SRFIs in terms of road and rail access, paragraph 4.84 acknowledges that countryside locations may be required. In relation to criteria for good design for national network infrastructure, paragraph 4.28 states that applicants should include design as an integral consideration from the outset of a proposal. Paragraphs 4.29 and 4.34 make clear that visual appearance is a key factor in considering the design of new infrastructure and that good design can be demonstrated in terms of siting and design measures relative to existing landscape and historical character and function, landscaping permeability, landform and vegetation. These are site location and scheme design factors which affect the suitability, quality and overall environmental acceptability of development proposals.
- 7.2.5. The NPPF at paragraph 170 notes that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
- 7.2.6. Objective 2 of the WNJCS seeks to ensure social, physical and green infrastructure is adequately provided to meet the needs of people and business in a timely and sustainable manner, whilst Objective 15 seeks to ensure high quality design. The WNJCS at Policy S1 (Distribution of Development) defines the strategy as being for development to be concentrated primarily in and adjoining the principal urban area of Northampton. Policy BN1 (Green Infrastructure Connections) seeks in general terms to protect and enhance green infrastructure assets, whilst Policy S10 aims to ensure proposals comply with sustainable development principles.

The Applicant's Case

- 7.2.7. ES Chapter 4 considers landscape and visual impacts [APP-083]. It describes and summarises the results of a Landscape and Visual Impact Assessment (LVIA). This was based on current best practice⁵⁴. It was used to identify and assess the likely significance of effects of change resulting from development both on the landscape as an environmental resource in its own right, and on people's views and visual amenity. The methodology criteria for the LVIA are set out in ES Appendix 4.1 [APP-130] and summary tables of landscape and visual effects are at ES Appendices 4.4 [APP-133] and 4.5 [APP-134] respectively.
- 7.2.8. In its SoCG, SNC agrees that the LVIA is appropriate and based on the Proposed Development parameters, including the proposed screening earthworks, landscaping and planting, and identified views and receptors [AS-058].
- 7.2.9. The Main Site does not fall within any national landscape designation, nor are there any in close proximity. A small part of the southern end of the Roade Bypass Corridor extends into the locally-designated Tove Valley Special Landscape Area which was contained within the South Northamptonshire Local Plan. The South Northamptonshire Local Plan Part 2 consultation draft proposes that this be retained. The Courteenhall Registered Park and Garden lies to the south-west of the Main Site, beyond the A508⁵⁵.
- 7.2.10. The existing site characteristics and their context are set out in Chapter 2 above. The proposals for the Main Site would involve a considerable amount of earth moving on a cut and fill basis to create the development plateaux for the rail terminal and warehousing, with moved material used to form landscaping bunds around the site periphery. Parts of the site would be lowered by between 8 and 10m. The phasing and sequencing of the development has taken into account landscape and visual considerations. The earthworks strategy and formation of the development plateaux and mounding, and timing of the planting and landscaping proposals, are important in this regard [APP-081, Main Site Phasing Plan], as is the retention of the two areas of existing Highgate and Churchills woodland within the Main Site [see the Illustrative Masterplan, APP-066].
- 7.2.11. A key objective of the scheme parameters for the Main Site is to establish principles which control the visual effects of the warehouse buildings and freight terminal operations. This is determined by fixed parameters for finished floor levels, the height of built form and the height of landscape screen bunds [REP5-020].
- 7.2.12. The consequence of the above is that a strong landscape framework would be established which would provide considerable screening and containment

⁵⁴ Guidelines for Landscape and Visual Impact Assessment third edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment, 2013

⁵⁵ Impact on this designated heritage asset is considered in section 7.5 of this Chapter

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of the Main Site and its buildings and operational rail facilities from beyond the site once planting matured. Notwithstanding that the built development would be largely screened from beyond the site, the Design and Access Statement (DAS) [APP-379] sets out that the underlying principle of the design approach to be applied is to provide buildings that offer architectural character, quality and enhancement to the immediate vicinity, whilst understanding that warehousing buildings cannot be fully concealed.

- 7.2.13. ES Chapter 4 contains a series of cross-sections, photographs and photomontages, the photomontages illustrating the likely visual appearance upon completion and at year 15, the latter to take account of the effect of both conserved and proposed landscaping [APP-083]. A selection of these are also reproduced and explained in the DAS. The ability of the bunding to perform its mitigation function is demonstrated in landscape and visual terms through the landscape cross-sections and the photomontages.
- 7.2.14. Assessment of both landscape and visual impact has been carried out having regards to effect on the landscape and specified receptors (residents, users of PRoW and road users). The sensitivity of both landscape and receptors and the assessed magnitude of landscape and visual effects have been combined to arrive at an overall significance of effect during construction, on completion of the Proposed Development and at year 15. These impacts are summarised in tabular form at ES Appendices 4.4 [APP-133] and 4.5 [APP-134].
- 7.2.15. In terms of landscape, during construction impacts are assessed as being minor adverse or minor adverse / negligible for defined county landscape character areas except for the Tove catchment where the significance of impact in respect of the Roade Bypass would be minor / moderate. This reduces to minor adverse at year 15. For the Main Site and its immediate local / landscape context there would be a major adverse impact and a moderate / major adverse impact for the Roade Bypass site during construction. For the Main Site and its immediate landscape context the assessed impact reduces to moderate / major adverse on completion of development, and moderate at year 15. For the bypass and its local / site context impact reduces to moderate adverse on completion and minor/moderate at year 15.
- 7.2.16. Having regards to visual impacts, for a limited number of residential properties to the north, west and south of the Main Site there would be a range of adverse effects during construction and at the opening of the SRFI. However, only at West Lodge Cottages (P5⁵⁶) and Courteenhall West Lodge / Farm (P6) to the south, and Lodge Farm (P16) near the western edge of the Main Site would the magnitude of adverse effects be moderate / major. For the former this would reduce to moderate and then minor/moderate when the development was completed and at 15 years respectively. For Courteenhall West Lodge / Farm impacts would reduce to minor / moderate adverse at year 15 and for Lodge Farm they would reduce to moderate on

⁵⁶ The references in brackets are the location references of the visual receptors shown on Figure 4.8 with ES Chapter 4 [APP-083]
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opening and then minor / moderate at year 15. For all other assessed receptors there would be lesser impacts and for all these would be no higher than minor / moderate at year 15.

- 7.2.17. For residential receptors close to the proposed Roade Bypass only properties on the northern side of Dovecote Road (P18) and properties on the western side of Blisworth Road and Dovecote Farm (P20) would experience moderate / major adverse effects whilst construction took place. For both sets of properties effects would reduce to moderate by year 15. For all other properties there would be lesser impacts.
- 7.2.18. In terms of assessment from PRow, major adverse effects during construction are noted for footpaths F1 and F2 (KX13 and KX17)⁵⁷, which both currently cross the Main Site, with impact reducing to moderate / major adverse on opening and then moderate adverse at year 15 as landscaping becomes established. At construction, moderate / major adverse effects are recorded for footpaths F3, F4 and F5 to the west of the Main Site from where there would be easterly and north-easterly views towards the SRFI. Significance of impact would reduce to minor/moderate adverse at year 15 with the maturation of landscape planting. There would be lesser degrees of impact for other PRow from which development on the Main Site may be seen.
- 7.2.19. For footpaths in the vicinity of the Roade Bypass, at construction there would moderate / major adverse impacts for F16, F17, and F19, with a major adverse impact on the bridleway F18 (RZ1). Impacts would reduce to moderate or minor / moderate adverse for all these at year 15. There would be lesser impacts on other PRow.
- 7.2.20. For transient road users no major adverse effects are recorded for any stage of the Proposed Development. Partial glimpses would be available for passengers travelling on the NLL for a short section south of Collingtree Road such that at construction there would be a moderate / major adverse effect. This would diminish to minor / moderate adverse and then minor adverse on opening and at year 15.
- 7.2.21. In summary, in terms of visual effects 17 receptor locations would experience significant adverse effects during construction, with eight locations experiencing a similar effect on opening and no receptors experiencing such effects at year 15.
- 7.2.22. The various relevant requirements within the dDCO would serve to ensure that the appropriate mitigation for the Proposed Development would be put in place and implemented. These include Req 3 (components of development and phasing), Reqs 8 and 9 (detailed design approval), 10 (the provision of landscaping), 11 (Landscape and Ecological Management Plan), and 12 (Construction Environmental Management Plan).

⁵⁷ Shown on Access and Rights of Way Plans sheets 1 and 2 [APP-021 and APP-022]
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- 7.2.23. Cumulative landscape and visual effects have been considered in combination with and in addition to the two committed (allocated) projects of the Northampton South SUE and the South Brackmills SUE [APP-083, Chapter 4, section 4.7]. The Northampton South SUE is the closer of the two allocations, lying to the north of the Main Site on the opposite side of the M1. Its landscape is dominated by the motorway and other urbanising influences. In both landscape and visual impact terms there would be no significant cumulative effects arising from the Proposed Development. This would similarly be the case in respect of the South of Brackmills SUE, which is further away on the eastern edge of Northampton.
- 7.2.24. Cumulative assessment was also carried out within the ES in relation to the RC proposal, though when carried out this was tentative and interim as much of the RC environmental information was incomplete or not available in final form prior to the submission of the RC application. An updated Cumulative Impact Assessment (UCIA) with RC was produced [AS-040] in response to ExQ 1.9.1 and was based on RC's application as accepted for examination. This concluded that, in combination, the urbanising and large-scale development influences would be likely to result in significant cumulative effect upon the character and features of the landscape stretching between the M1 and the A43. Some properties at Milton Malsor, Blisworth, and in the general vicinity of these settlements, would experience significant cumulative visual effects from the combination of the two proposals.

Planning Issues

- 7.2.25. Concern has been expressed in respect of the transformative impact of the development of the Main Site on the existing landscape character. SNC noted that a development of the scale proposed would have a significant adverse impact on the existing landscape character. This is by reason of the fact that the site is currently mostly undeveloped, with the M1 providing an existing strong barrier between Northampton's urban fringe and the predominantly agricultural landscape to the west. The existing pleasant landscape would be replaced with the urban form of buildings, road and rail infrastructure. Together with the diversion of footpaths around the site there would be a significant impact on both landscape and for views into and within the site [REP1-039, REP1-052, REP1-066, REP1-090].
- 7.2.26. The above comments are echoed in other representations when concern has been raised as to the loss of part of the 'green lung' of countryside and the fact that the development would breach the M1 which is seen as the natural barrier to the urban expansion of Northampton [eg REP1-027, REP2-021, REP1-111].
- 7.2.27. Reference has been made to saved Policy EV8 of the South Northamptonshire Local Plan, which designated land to the south of Northampton as a 'Local Gap' [eg RR-050, REP1-052, REP1-063, REP1-083, REP1-104]. This seeks to prevent development that would significantly intrude into this gap and ExQ 1.0.9 sought views on the Proposed Development's relationship with this policy [PD-007].

- 7.2.28. The Applicant views the policy from the 1997 Local Plan as out-of-date, with the policy approach of seeking to identify the land to the south-west of the M1 for preservation not being carried forward in the adopted 2014 WNJCS. It further considers the policy to be contrary to strategic Policy S1 of the WNJCS. This identifies development 'in and adjoining' the principal urban area of Northampton as the key location for major growth, and which provides criteria for the assessment of landscape and other effects, without reference to Policy EV8 or any 'local important gap'. [REP1-020, response to ExQ 1.0.9].
- 7.2.29. In response, SNC referred to its emerging Local Plan Part 2 [REP2-019]. This does not include a specific policy to identify important local gaps but the Council suggests that the principles enshrined within saved Policy EV8 are carried forward. Policy SS2, a generic policy, seeks to ensure that planning permission is granted for sustainable, well-designed development that will respect the context in which it will be set. SNC notes that this continues to recognise the importance of maintaining the individual identity of towns and villages and the significance of the open countryside between settlements.
- 7.2.30. In response to concerns expressed by RC [REP4-020] regarding the clarity of approach in respect of the heights of the proposed landscape screen bunds, the Applicant provided an amended Parameters Plan to clarify matters [REP5-010]. The Applicant's original intention had been to allow for some limited flexibility in final bund height subject to maintaining the principles shown and assessed on the landscape cross-sections.
- 7.2.31. However, having reviewed the approach adopted, and given the importance of this aspect of the scheme, the Applicant considered it appropriate to clarify the position and remove any uncertainty by providing greater clarity on the height of the bunds. This is achieved by identifying spot heights. The revised plan also confirms that the height of the bunding between two consecutive spot heights would be no lower than the lower of the two spot heights and no higher than the higher of the two spot heights [REP5-020].
- 7.2.32. RC has criticised the Applicant's UCIA suggesting that, in respect of landscape and visual impact, there has been confusion of assessment of one project in its own right with the assessment of cumulative effects of the RC and Northampton Gateway together. This casts doubt on the overall robustness of the assessment. There is also detailed criticism regarding some specific elements of the updated assessment [REP5-026]. The Applicant responded to these criticisms at D6 [REP6-011].
- 7.2.33. Concerns have been expressed by, for example, Blisworth Parish Council, CPRE and Northampton Ramblers, regarding the further dislocation of the villages of Collingtree, Milton Malsor and Blisworth that would result from the diversion of footpaths. The attractiveness of the paths to ramblers, dog walkers and local people would be severely diminished by the additional length and proximity to the SRFI and could be a deterrent to many [RR-031, RR-437, REP1-044, REP1-052, REP1-080].

The ExA's considerations

- 7.2.34. With a development of the scale proposed it is inevitable that there is likely to be some degree of adverse landscape and visual harm. This is because of the fundamentally transformative effect of what is predominantly open agricultural land to a large essentially commercial / industrial landscape. The NPSNN recognises this at paragraph 5.149 and if harm cannot be avoided it states that this should be minimised by providing reasonable mitigation where possible and appropriate.
- 7.2.35. We have carefully considered both the landscape and visual impacts from the evidence produced, including the Applicant's LVIA and suite of illustrative material which included photomontages. Our deliberations have also been informed by what we have seen on both accompanied and unaccompanied inspections to the site of the proposed SRFI and its associated development elements. We are satisfied that, on the whole, the Applicant's assessment of landscape and visual impact is accurate.
- 7.2.36. No nationally-designated landscapes would be impacted. The only locally-designated landscape, the Tove Valley Special Landscape Area, into which only a small section of the Roade Bypass would extend, would not be materially adversely affected. Although the SRFI would occupy open land which could be seen as part of a gap between the current built edge of Northampton and villages of Milton Malsor and Blisworth and Roade, this does not have any specific protective designation at a national level.
- 7.2.37. Policy EV8 of the South Northamptonshire Local Plan is still extant though arguably out-of-date. Policy SS2 of the emerging South Northamptonshire Local Plan Part 2 seeks to maintain the individual identity of towns and villages without significantly reducing open countryside between settlements or their distinct parts. However, this is a generic policy and does not carry forward the specific local gap protection of Policy EV8. Policy EV8 also predates the NPPF and the WNJCS, the latter being prepared in the context of the NPPF and having regard to an updated evidence base concerning landscape value. Furthermore, at the close of the Examination, the Part 2 Plan had not undergone its own examination as to soundness. We consider the weight to be accorded to these policies is therefore limited. These policies are relevant considerations but, in any case, are not determinative having regard to judgements to be made in the context of the NPSNN.
- 7.2.38. There would be adverse landscape and visual effects during the construction of the Proposed Development on both the Main Site and in respect of the Roade Bypass which taken together would amount to a substantial impact. These could be partially mitigated through careful construction management, particularly in relation to the phasing of earth moving and mounding for the Main Site and secured within the dDCO through Reqs 12 and 13. However, there would be time-limited residual adverse impacts nonetheless for a small number of nearby receptors.
- 7.2.39. Having regards the operational phase, there would be both adverse landscape and visual impacts. For the Roade Bypass the proposed screening and landscaping would help assimilate the highway infrastructure into the

surrounding landscape and western village environs such that its impact as landscaping matured would only be moderately adverse.

- 7.2.40. Regarding the Main Site, impacts within it would be significantly adverse as a result of the complete transformation of the site from an essentially agricultural landscape to an industrial/commercial one. Beyond the site, adverse impacts would reduce as the landscaping on the screening bunds around the Main Site matured. The proposed landscaping for the Main Site would be largely effective at screening the development from beyond the site, and this would be partially assisted through retention of the two stands of woodland within it. However, there would be some inevitable artificiality of the perimeter bunding which would be particularly evident in the early years and which would contribute to adverse landscape and visual impact.
- 7.2.41. Within the context of the Main Site's location, its containment by the M1 and NLL to two sides, and the proposed mitigation including landscaped bunding and reductions in development plateau levels, we are satisfied that the Applicant has undertaken an effective process in terms of good design and that this has been an integral consideration from the outset, as required by NPSNN paragraph 4.28.
- 7.2.42. Whilst being largely screened from beyond the Main Site there is recognition that large warehouse buildings cannot be fully concealed. The Applicant's Design and Access Statement notes that a range of external materials and colour palettes would be available to soften and break up the visual proportions of the larger buildings. Control over the final designs would be exercised through Req 8 of the dDCO. We are satisfied that in combination these factors would ensure that landscape impacts overall would be not so adverse as to constitute a reason for refusal of consent in its own right and that due regard has been paid to the requirements of achieving good design.
- 7.2.43. A high level of screening for development on the Main Site would exist from beyond the site once landscaping begins to mature. Whilst extending close to the south-eastern edge of the village of Milton Malsor, landscaping mitigation would prevent significant adverse visual impact for receptors there. This would similarly be the case in respect of Collingtree. We agree with the view of NBC expressed in its WR [REP1-088] that, through the proposed earthworks and landscaping, and being seen within the context of the M1, the overall visual impact from within the Borough would not be significantly adverse.
- 7.2.44. There are relatively few residential properties which would have direct or close views of large parts of the development on the Main Site. Through the proposed mitigation any visual harm experienced would not be significantly adverse.
- 7.2.45. We are satisfied that both landscape and visual impacts of the associated development of the Roade Bypass and the other highway works would not be significantly adverse following mitigation where necessary.
- 7.2.46. Marked visual change would result for users of the PRoW that currently cross the Main Site and which would as a result of the SRFI be diverted around its

periphery within the perimeter landscape framework. The present experience for users is to some extent tempered in parts by proximity to and noise from the M1, but otherwise these footpaths pass through currently open agricultural land. Footpath F1 (KX13) provides a pleasant link between Blisworth and Collingtree with views over the surrounding countryside.

- 7.2.47. Landscaping within the proposed bunding would provide visual screening for that part of F1 directly affected though the distance of the linkage from the western site entrance to the footbridge over the M1 would increase by some 800m and for much of its length would be adjacent to the NLL, Collingtree Road and the M1. Nevertheless, the link between Blisworth and Collingtree would be maintained, albeit lengthened. For footpath F2 (KX17), which would become a combined pedestrian / cycle route, views would be more dominated by the large-scale warehousing and associated infrastructure.
- 7.2.48. The Applicant's assessment for both these PRoW is that the initial major adverse effect during construction would reduce to moderate / major when the development opened and to moderate adverse at 15 years. We consider this assessment somewhat underestimates impact, taking into account the increased length of the paths, proximity to roads and the railway and, particularly in relation to KX17, the ready perception and views of the SRFI; the visual and experiential impact for users of these PRoW would be diminished compared with the present. Nonetheless, we are satisfied that the Applicant has undertaken an effective process to minimise visual and experiential harm to an extent allowable in NPSNN policy terms, having regards to paragraphs 4.29-4.34, whilst also having regards to Objectives 2 and 15 and Policy S10 of the WNJCS. We are satisfied that the tests for the closure /diversion of these footpaths are satisfied.
- 7.2.49. It is self-evidently inevitable that the magnitude of the cumulative and combined landscape and visual impact of the Proposed Development with the neighbouring RC would be greater than for the Northampton Gateway scheme alone. The Applicant has undertaken the exercise in making an assessment, some of the results of which are disputed by RC. However, the examination of the RC application is not now likely to start until December 2019. We therefore consider that any cumulative impacts would be more appropriately addressed within the context of that Examination in light of the circumstances and evidence pertaining at that time.

Conclusion on Landscape and Visual Impact

- 7.2.50. Taking all relevant documents and policies into account, the ExA concludes:
- there would be a major adverse impact of the Proposed Development in both landscape and visual terms during construction, but this would be time-limited;
 - in respect of the Roade Bypass, following mitigation landscaping and screening, the impact would be only moderately adverse;
 - there would be a major adverse impact in landscape and visual terms within the Main Site because of its completely transformative nature, though this could be mitigated to some degree through adherence to good design principles. Within the immediate and wider vicinity of the

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Main Site, following mitigation landscaping and screening, impact in visual and landscape terms would be moderately adverse;

- there would be moderate to major adverse visual and experiential impacts for users of footpaths KX13 and KX17;
- sufficient regard has been paid to satisfying the criteria of good design and having regard to appropriate mitigation such that the Proposed Development would be compliant with the NPSNN on these matters; and
- the extent and nature of the mitigation for the Proposed Development as a whole would be such that consent should not be refused on landscape or visual grounds.

7.3. NOISE AND VIBRATION

Introduction

- 7.3.1. This section addresses the noise and vibration effects of the Proposed Development.

Policy Considerations

- 7.3.2. Noise considerations are set out in NPSNN paragraphs 5.193 to 5.196. Mitigation is considered in paragraphs 5.197 to 5.200.
- 7.3.3. Relevant statutory requirements and the relevant sections of the Noise Policy Statement for England, NPPF and PPG on noise should be met in both construction and operational stages.
- 7.3.4. In the context of meeting the Government's policy on sustainable development a development should: avoid significant adverse impacts on health and quality of life from noise; mitigate and minimise other adverse impacts on health and quality of life from noise from new development; and contribute to improvements to health and quality of life through the effective management and control of noise, where possible (NPSNN, para 5.195).
- 7.3.5. Requirements to secure noise performance (NPSNN, para 5.196) and mitigation (NPSNN, para 5.197) should be considered, but measures should be proportionate. Appropriate measures can include containment, noise reducing materials, layout changes and administrative measures including noise and working hours limits.
- 7.3.6. Projects should demonstrate good design through optimisation of scheme layouts to minimise noise emissions and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission (para 5.194).
- 7.3.7. Noise mitigation through increased dwelling insulation and ventilation measures pursuant to the Noise Insulation Regulations and the potential scope for compensation should be considered (para 5.199).
- 7.3.8. Having regards to local policies, Policies S10 and BN9 within the WNJCS seek to minimise impacts from noise and are broadly consistent with the NPSNN and with the NPPF.

The Applicant's Case

- 7.3.9. ES Chapter 8 [APP-094] considers noise and vibration. The chapter is supported by technical appendices (Appendices 8.1-8.22 [APP-186 – APP-207]). It identifies and then assesses the following sources:
- construction of the SRFI (including warehousing), the Roade Bypass and the other highway works;
 - the change in road traffic flows on the road network around the Main Site, including any effects of the highway works, and around the village of Roade as a consequence of the Roade Bypass;
 - the traffic serving the SRFI travelling on the internal roads within the Main Site;
 - the additional freight trains serving the SRFI travelling on the Northampton Loop railway line, which could also lead to an increase in perceptible vibration at receptors close to the railway line;
 - the freight trains serving the intermodal freight terminal travelling within the Main Site, including the associated loading and unloading activities;
 - heavy goods vehicles (HGVs) and other operational activity at the Main Site such as manoeuvring, loading and unloading at the proposed warehouses, intermodal freight terminal, aggregates facility and rapid rail freight facility; and
 - mechanical services plant associated with the warehousing at the SRFI.
- 7.3.10. The ES notes at paragraph 8.3.2;
- "In general, the assessment methodology used for each type of source is different in terms of how the potential noise or vibration impact is predicted and how the effect is assessed. The degree of the impact and the significance of the effect is dependent upon several factors, including the noise level from the particular activity, the existing sound environment, and the duration, timing and character of the different noise sources".*
- 7.3.11. Baseline conditions have been established through noise surveys in Appendices 8.13 to 8.16. The likely evolution of the noise and vibration environment without implementation of the Proposed Development is an integral part of the assessment, based on the prediction and comparison of future year Do-Minimum (DM) and Do-Something (DS) scenarios.
- 7.3.12. The prediction of potential noise impact and effects from various elements of the Proposed Development have been assessed at selected representative noise-sensitive receptors based on their location relative to the different sources of noise within the development, shown on Figures 8.1 – 8.3 within ES Chapter 8 [APP-094]. The predictions are for selected future year scenarios. For the assessment of road traffic noise these are 2021 (the assumed opening year for the Proposed Development) and 2031 when the SRFI could be fully operational and with all highways works completed. For railway noise, in addition to 2021, the assessment dates are 2033 (the assumed opening year of HS2 Phase 2b) and 2043 (the Network Rail long-term planning horizon).
- 7.3.13. In general terms the SoCG with SNC [AS-058] notes that the M1 motorway is a significant noise generator, separating the Main Site from receptors
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within Northampton and results in relatively high baseline levels of noise at the SRFI site;

"This makes significant construction noise effects unlikely for most receptors. There are few sensitive receptors close to the SRFI site within South Northamptonshire that are likely to experience effects from noise during construction or when the site is operational" (para 7.1).

7.3.14. Having regards to the Roade Bypass the SoCG notes that this;

"... will deliver beneficial reductions in noise in the centre of the village, but receptors close to the bypass will experience moderate to major adverse effects which will be noticeable. Mitigation measures, including earthworks and acoustic fencing, are proposed to minimise these effects and will result in residual noise levels below the 'Significant Observed Affect Level'".

7.3.15. The results of the assessments of the potential sources of noise and vibration associated with the Proposed Development are summarised in ES Table 8.19 [APP-094, paras 8.5.168 - 169]. The results have taken into account mitigation that is inherently integrated into the design of the Proposed Development, such as landscaping bunds around the Main Site and Roade Bypass, except in the assessment of construction noise, meaning that robust assumptions have been considered prior to the development being completed. The Table indicates that only a very limited number of receptors potentially would be likely to experience significant adverse effects in the absence of further mitigation from either construction noise, railway noise or road traffic noise.

Construction noise and vibration

7.3.16. Mitigation of construction noise and vibration would be achieved by use of best practicable means (BPM). Potentially significant adverse temporary noise effects are predicted at two receptors – Hyde Farm (R38) and Blisworth Road (R41)⁵⁸. Through measures such as the use of temporary screens and careful location of plant, attenuation would be achieved for these such that construction noise would be below a Significant Observed Affect Level (SOAEL) in all cases. BPM would be considered for all construction work and would be contained in relevant phase-specific Construction Environmental Management Plans (P-CEMPs) secured through Req 12 of the dDCO.

Railway noise and vibration

7.3.17. No significant adverse effects are expected as a result of the potential change in railway noise or railway-induced vibration for any of the future year scenarios at any of the relevant receptors, with three exceptions⁵⁹. For these three, in 2043, the Network Rail long-term planning horizon, there

⁵⁸ References in brackets are to Figures 8.1 – 8.4 within ES Chapter 8

⁵⁹ R1 Woodpecker Way on the southern outskirts of Northampton, R28 Collingtree Road North and R54 Ashton Road West (Figures 8.1 and 8.2 [APP-094])
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could just be a significant adverse effect due to a possible increase of one noise-induced awakening a night [APP-094, para 8.5.48].

- 7.3.18. However, as Appendix 8.19 [APP-204] notes, there is a degree of uncertainty in assessment for such a time frame hence, including the noise levels emitted from rolling stock. It is likely that future freight locomotives would generate lower levels of noise than currently assumed, and work is being carried out at a European level to reduce the noise from freight trains. Potential significant adverse effects could therefore be mitigated by the use of quieter rolling stock [APP-094, para 8.6.11].
- 7.3.19. This assessment takes account of the minor change to the Parameters Plan [REP5-010] and Works Plan [REP5-008] which involves the move of the railway corridor within the Main Site slightly further to the north (discussed in sections 5.4 of Chapter 5 and 7.2 of Chapter 7). The Applicant carried out an assessment of noise and vibration impact in light of the proposed amendment. This concluded that there would in general be no changes between the predicted impact magnitudes at the closest relevant receptors and that all impact magnitudes would be either negligible or no change [REP5-020, Appendix 2].

Road traffic noise

- 7.3.20. There are only two receptors where road traffic noise associated with the Proposed Development could result in a significant adverse effect⁶⁰. Mitigation would be applied through the implementation of the Noise Insulation Regulations 1975 (as amended).
- 7.3.21. The Roade Bypass is expected to reduce significantly the level of road traffic noise on the A508 through the centre of Roade, part of which is within a Noise Action Planning Important Area [APP-094, para 8.9.3]. Analysis suggests that more properties overall would experience a reduction in traffic noise as a result of the bypass [APP-094, Fig 8.7]; there could be a reduction of about 70% in the number of properties with noise exposures above SOAEL.
- 7.3.22. As well as landscape bunding, other mitigation in the form of acoustic fencing would provide additional attenuation of the road traffic noise on the bypass for relevant receptors. Appendix 8.15 of the ES [APP-200] shows there are no properties significantly affected by noise from the Roade Bypass and consequently there are no properties eligible for compensation under the Noise Insulation Regulations [REP5-021, answer to ExQ 2.7.3]. Together with a reduction in noise at the Roade Quarry Local Wildlife Site the bypass would represent a beneficial impact of the Proposed Development in terms of noise. Works are secured through the dDCO under Works No. 13 and Reqs 5 and 6, 8 and 9.

⁶⁰ R30 West Lodge Cottages and R57 The Lodge adjacent to the A508, [APP-094, Figure 8.1]

- 7.3.23. The SoCG with SNC [AS-058] records that the Council is content that the noise impacts of the development would be acceptable and would be appropriately addressed by Req 23 of the dDCO⁶¹.

Activities on the Main Site

- 7.3.24. The design of the Main Site includes landscape bunds around its perimeter, with heights optimised to provide maximum environmental mitigation whilst remaining practicable [APP-094, para 8.6.55]. No significant adverse effects are expected as a result of potential impacts of sound from operational activities on the Main Site at any of the relevant receptors when the SRFI is fully operational [APP-094, para 8.6.52]. Mitigation and control of noise are secured in the dDCO through Reqs 3, 8, 9, 13, 23 and 24.

Cumulative impact

- 7.3.25. The traffic data used in the prediction of road traffic noise for all baseline and future year scenarios include all committed development and allocated sites within the Northampton area and include committed infrastructure schemes. The cumulative effect of noise from the Proposed Development and the Northampton South SUE was considered only in respect of road traffic, given that proposal's residential nature.
- 7.3.26. Cumulative impact with the RC proposal was assessed in the ES. However, at the time of the Northampton Gateway application the RC proposal was not subject to an extant application. Assessment was therefore based on RC's updated Preliminary Environmental Information Report (PEIR). An Updated Cumulative Impact Report (UCIA) with RC was produced [AS-040], containing sections on noise and vibration. This was based on RC's ES in its application accepted for examination, although the section on noise and vibration is largely unchanged from the PEIR.
- 7.3.27. The UCIA notes that the potential cumulative impacts of noise and vibration have been considered as far as is practicable, but whilst the potential sources of noise and vibration are similar for both schemes, the results are not necessarily easily combined due to methodological differences [AS-040, para 2.108].
- 7.3.28. The Applicant considers there to be shortcomings in the manner in which RC's ES has assessed noise and vibration [AS-040, para 2.109]. As such, it is not a sufficiently robust assessment to make possible the identification of the likely potentially adverse and significantly adverse noise and vibration effects. Cumulative assessment has therefore been undertaken in this context.

⁶¹ This was subject to an amendment which has subsequently been incorporated into the recommended DCO

- 7.3.29. Because the two assessments use largely different receptors for the prediction of potential effects there are only two shared receptors which are to the north and south of the boundary between the two sites⁶².
- 7.3.30. No adverse or significant adverse effects are expected from construction noise or vibration in the event that both schemes were to go ahead concurrently [AS-040, paras 2.126 and 2.127]. No cumulative adverse significant effects from railway vibration are expected at the two common receptors based on the Applicant's prediction and assessment methodology.
- 7.3.31. The concurrent operation of the two schemes in terms of railway noise could result in significant adverse effects during the night-time both in terms of average railway noise and noise-induced awakenings at one of the two common receptors. It is estimated that there may be cumulative significant adverse effects from railway noise-induced awakenings due to operation of both schemes at five receptors⁶³ in the years 2033 and 2043 with both open and closed windows [AS-040, para 2.131].
- 7.3.32. The Applicant notes that the potential cumulative effects are based on assumptions made for the detailed modelling of railway noise and vibration that it has carried out; they may not be valid when considering the RC operations [AS-040, para 2.132].
- 7.3.33. There would be no cumulative change in terms of significant adverse effects from road traffic noise on the roads around NG's Main Site, the Roade Bypass and in respect of other highway works. There may, however, be a small number of not significant changes in impact magnitude for some receptors.
- 7.3.34. The assessment of noise from operational activities taking place at both sites indicates that those from the RC SRFI would be likely to dominate at the two shared receptors, with adverse impacts and effects possibly occurring during both the daytime and night-time. However, the differences in background sound levels and operational sound assumptions of the two assessments mean that this conclusion should be treated with some caution [AS-040, para 2.163].
- 7.3.35. Overall, the UCIA suggests the cumulative impact of both projects operating at the same time is likely to result in a greater number of adverse noise effects when compared with the Proposed Development operating alone [AS-040, para 2.164].

Planning Issues

- 7.3.36. Various criticisms have been made of the Applicant's assessment in relation to the Proposed Development. There are also criticisms regarding the Applicant's UCIA. These are considered in turn, together with the Applicant's response.

⁶² R21 Barn Lane and R28 Courteenhall Road (Figure 8.1 [APP-094])

⁶³ R01 Woodpecker Way, R18 Collingtree North, R32, Bridge Cottage South, R39, Bailey Brooks Lane West and R54 Ashton Road West

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Assessment of operational noise from the Main Site

- 7.3.37. ExQ 1.8.13, asked in respect of the assessment of effects from operational SRFI activities how differences in noise levels, the resulting absolute levels of sound, and the character of the sound source had been combined to establish the significance of effect [PD-007].
- 7.3.38. The Applicant carried out an initial assessment in accordance with BS 4142:2014, with a further assessment being carried out by converting the established BS 4142:2014 Rating Level to an internal rating level and comparing this to criteria in BS 8233:2014 [APP-094, paras 8.3.64 to 8.3.72].
- 7.3.39. RC considered that the criteria in BS 8233 are not appropriate for the assessment of industrial sound, where this is subject to character correction under BS 4142 and the results of the assessment cannot be relied upon [REP1-033, REP2-016]. In response, the Applicant stated that BS 4142:2014 has been properly applied in supporting the assessment of potential effects of operational sound, with BS 8233:2014 used to provide guidance when taking context into account, as set out in BS 4142. It considers the assessments of operational sound are robust and correctly follow the principles of BS 4142:2014 [REP3-008].
- 7.3.40. Northampton Rail Users Group (NRUG) made several criticisms of the Applicant's noise assessment in its WR [REP1-092]. These include:
- the Applicant's interpretation of the World Health Organisation's (WHO) guidelines is incorrect and the Applicant is trying to establish a higher night-time noise level than appropriate in the assessment;
 - concern is expressed that averaging out noise over a 16-hour period misleads, as individual periods, or single, high noise emissions, which may be significant effects, become indiscernible through averaging;
 - ES Table 8.19 establishes that there would be significant adverse effects and that these would exist even after 'inbuilt' mitigation has been considered but that there are no proposals to mitigate these;
 - modelling of rail operations is understood to be as "a continuous mainline operation" which does not reflect the nature of terminal operations; and
 - the application of a +3dB(A) penalty applied to all sources of noise of an industrial nature is a conservative allowance when +5dB is the usual consideration for tonal or other such characteristics of noise emissions.
- 7.3.41. The Applicant responded at D2 [REP2-010]. Having regards the WHO Guidelines, the Applicant notes that it is not correct that a higher night-time threshold is being used:

"The threshold value of 45 dB(A) refers to the short-term, maximum noise level that might occur inside a bedroom at night from a particular external noise source. The indicator used for this maximum noise level is LAFmax. This level corresponds to an external value of 60 dB(A) assuming the 15 dB attenuation through an open window. The threshold value of 30 dB(A) mentioned in the WR refers to the overall internal noise exposure averaged over the 8 hour night-time period (LAeq,8h). The corresponding external

value is 45 dB(A), LAeq,8h, assuming the 15 dB attenuation through an open window. Both these thresholds are used in the assessment and are consistent with the WHO Guidelines for Community Noise. Consequently, the Applicant has not tried to establish a higher night-time threshold than is appropriate.

7.3.42. The Applicant further responded [REP6-014] to NRUG's reference made in an additional submission [AS-072] to the WHO Environmental Noise Guidelines for the European Region 2018 in which the Group referred to a 44dB limit which should not be exceeded. The Applicant noted that the Noise Guidelines were published after the submission of the ES, with the quoted value of 44dB referring to average noise exposure during an average night arising from railway noise. The value of 45dB referred to in ES paragraph 8.3.71 refers to the maximum noise level arising from a single discrete event. It is not therefore valid to compare the two numbers. Furthermore, the Applicant notes, the WHO Noise Guidelines do not update the advice previously given by the WHO and as used by the Applicant on the impact of maximum noise levels from discrete events.

7.3.43. Regarding the use of Leq16, (the noise averaged out over 16 hours) the Applicant notes [REP2-010] that it has been long-established that it is appropriate to assess the impact of road traffic noise during the daytime and evening period by the use of an average noise indicator. Such averaging is supported by guidance documents published by the former Highway Agency (now Highways England).

7.3.44. The Applicant noted that where potentially significant adverse effects or other adverse impacts have been identified as a result of the Proposed Development, specific appropriate measures have been proposed to avoid, mitigate and minimise them as required by Government policy, as indicated in ES Table 8.19. The only exception relates to potential significant effects associated with the railway noise maximum levels. For this impact no specific measure is proposed as the ES states at paragraph 8.6.11 *"(W)ork is being carried out at a European level to reduce the noise from freight trains and it is likely that by 2043, quieter rolling stock will be in use compared with that assumed for this assessment."* Therefore, the potential significant adverse effect would be mitigated by the use of quieter rolling stock [REP2-010].

7.3.45. ES Table 8.19 shows outcomes before the consideration of additional mitigation. Once additional mitigation is taken into account there are no significant residual effects, as summarised in Table 8.21 [REP2-010].

7.3.46. In response to modelling of train operations, the Applicant indicated that;
"the assumptions used in the modelling of noise from passenger and freight train movements on the West Coast Main Line and Northampton Loop lines include the acceleration and deceleration of the freight trains serving the SRFI as they approach and depart the Main Site, and any periods when freight locomotives are likely to be on-power. The assumptions used in the modelling of freight train movements within the SRFI are described in detail in Appendix 8.5 of the ES [APP-190] and are considered representative of

movements of this type. Noise from freight train movements within the SRFI is considered a component of operational sound from SRFI activities and is included in the assessment of that source". [REP2-010]

- 7.3.47. The Applicant noted that BS4142:2014 requires any corrections for tonal or other characteristics to be based on the acoustic characteristics of the source as they might be perceived by the receptor [REP2-010]. The ES indicates at paragraph 8.5.17 that the use of a +3dB correction represents a cautious approach applied to all sources of an industrial nature on the Main Site that might be readily distinctive at receptors [APP-094].
- 7.3.48. NRUG in its additional submission [AS-072] suggested that with reference to BS4142:2014 the determination of nuisance is outside the scope of the BS and that railways are specifically excluded. In responding [REP6-014], the Applicant indicated that the BS does refer to train movements on or around an industrial and / or commercial site as being within the scope of the Standard and therefore it has been correctly used. This is similarly the case in respect of the consideration of internal sound levels and the application of the +3dB correction bearing in mind the mitigation in the design of the Proposed Development.

Use of inappropriate and elevated assessment thresholds

- 7.3.49. RC considered that the thresholds for significant effect relating to construction noise at residential buildings as set out in ES Table 8.1 [APP-094] are excessively high, particularly for long-term construction activities; BS5228 suggests a significant effect could arise at levels 10dB below those quoted. Furthermore, no consideration has been given to the duration of bulk earth-moving operations which are to go on for two years. The thresholds used could be too high by up to 15dB [REP1-033, responses to ExQ 1.8.7 and 1.8.9, and REP2-016]. SNC also sought clarity as to the criteria chosen for assessing construction noise [REP1-038, response to ExQ 1.8.9].
- 7.3.50. The Applicant commented on SNC's response to ExQ 1.8.9 [REP2-010] in which it also considered answered the RC point [REP3-008], noting:

"the thresholds used for LOAEL⁶⁴ are external values and have been derived by considering the advice in Table E.1 of Annex E of BS 5228-1:2009+A1:2014, as well as the likely effects that those levels would have on people inside their homes. It should be noted that the values in Table E.1 provide "example thresholds of potential significant effect at dwellings". The supporting text states that before concluding that a significant effect is occurring, other project-specific factors needed to be taken into account. These include the number of receptors affected and the duration and character of the impact.

Policy requires that significant adverse effects are avoided within the context of government policy on sustainable development. It is appropriate, therefore, to set the SOAEL thresholds at exposures which might be used to

⁶⁴ Lowest Observed Adverse Effect Level
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trigger eligibility for mitigation in the form of sound insulation treatment and hence avoid a significant adverse effect”.

- 7.3.51. Further, the Applicant noted that SNC indicates that the predicted construction noise levels are comparable to existing ambient noise from the M1 and so are unlikely to be audible, further noting *"If a sound is not audible, it is arguably having no effect and certainly not an adverse effect"*.

Use of plant etc during the operational phase

- 7.3.52. RC noted that the description of development does not identify the type of plant that may be used during operation on the Main Site. Warehouse mechanical plant is intended to be assessed at a later date in accordance with Req 23 of the dDCO. The purpose of the assessment is said to be demonstrating compliance with Government and local policy on noise, rather than demonstrating that the noise will not exceed the effects of noise from such equipment assessed in the ES [REP4-020]. This is not a matter that can be deferred post-consent as it is at the present stage that effects must be demonstrated whether or not significant effects are likely or can be acceptably mitigated. Deferment is a clear example of being *ex parte Hardy*⁶⁵ inappropriate.
- 7.3.53. Furthermore, other potentially significant noise sources, such as HGV trailer-mounted chillers, have been excluded from assessment. Also, it is suggested that the assumed sound power output from gantry cranes operating on the intermodal platform, and their associated alarms, have been significantly underestimated [REP6-018, para 82].
- 7.3.54. The Applicant responded that the EIA Regulations acknowledge that with proposals there will be unknowns, (Schedule 4, para 6 of the 2017 Regulations [REP4-011]). A line has therefore been drawn between what is known and what is not known and may therefore be dealt with by a requirement. If the approach advocated by RC was to be taken, whereby every warehouse is assumed to have the maximum noise-emitting machinery and other maximum worst case features, the worst case would not be being assessed but would instead be an unrealistic worst case.
- 7.3.55. Reference is drawn to the decision in *Milne v Rochdale*⁶⁶ which stated that in looking at the worst case scenario it should be assumed that controlling regimes will be properly observed. It is entirely appropriate that detailed impact from plant and equipment is undertaken at the detailed design stage at a point when specific occupiers and their specific plant / equipment requirements will be known [REP7-006]. Assessment in ignorance of these matters would be entirely speculative.
- 7.3.56. The Applicant stated that RC's complaint regarding lack of assessment of mobile plant is misconceived for the same reason as above. Req 23 of the dDCO confirms that mobile plant, such as HGV trailer-mounted chillers,

⁶⁵ R v Cornwall County Council, ex parte Hardy [2001] Env LR 25

⁶⁶ R v Rochdale Metropolitan Council (ex parte Milne) [2001] Env LR 22

would fall to be assessed and mitigated in the same manner as warehouse plant. The sound power levels used in the assessment of rail-mounted gantry cranes and their associated movement alarms was based on measurements made at an operational container depot so that the data used are entirely reliable and representative of these sources [REP7-006].

- 7.3.57. SNC also expressed concerns in relation to operational noise from the Main Site in respect of the adequate assessment of the complexity of the proposed noise sources and whether the approach adopted had underestimated the potential impacts [REP4-015]. It considered that there was insufficient reasoning to support the approach adopted in the BS4142:2014 assessment.
- 7.3.58. In response to ExQ 2.7.2 [PD-010] which followed up this concern, the Applicant noted that the SoCG with SNC [AS-058] records the Council's agreement with the Applicant's approach [REP5-021]. This indicated that Req 23(1) of the dDCO would require the Council's approval of the assessment methodology and the precise implementation of standards such as BS 4142:2014 to be applied in discharging the requirement.
- 7.3.59. NBC in its LIR, whilst not making specific comments on potential noise impact, noted that construction and operational noise and the potential for noise deflection from proposed buildings would need to be considered in respect of nearest receptors within Collingtree village [REP1-089]. However, the LIR notes that the extensive earthwork bund would assist in mitigating impacts.
- 7.3.60. A Mr and Mrs Nola expressed concern as to the efficacy of the Applicant's modified design to landscape screening of the proposed Roade Bypass in respect of noise attenuation, amongst other matters, in relation to their property [REP5-035]. The change stems from the proposed relocation of the adjacent bridleway with a minor adjustment to the configuration of the screening bund in the vicinity of Hyde Farm House [REP4-014].
- 7.3.61. The Applicant has explained that the height of the bund has not been reduced although its suggested taper is now longer. Assessment carried out of the revised scheme compared with that originally proposed indicates that the level of noise impact is not changed, with the combination of bunding and noise fencing maintaining the overall effectiveness [REP6-014 and Appendix 1].

Cumulative impacts

- 7.3.62. Having regards to the Applicant's UCIA, RC suggested that this substantially underestimates the noise sources and levels generated by the Northampton Gateway Main Site [REP5-026]. Therefore, the cumulative assessment of construction and operational noise arising from both projects cannot be relied upon.
- 7.3.63. In respect of the significant adverse effects from rail noise should the two projects operate together, RC suggested that the 2033 and 2043 rail movement forecasts include all potential allocated movements as specified by Network Rail and these would occur whether taken up by RC or the

Proposed Development or both, or indeed any other development. There is therefore no reason to imply that RC would cause any 'exceedance' [REP5-026, para 30].

- 7.3.64. The Applicant rejected the notion of underestimation of noise sources and levels generated [REP6-011]. In terms of railway noise, the Applicant noted that the cumulative assessment was based on available information assuming that both developments were to operate as indicated in their respective ESs. The Applicant further noted that it;

"...recognises that this may result in an overestimate of the cumulative impacts, however, there is currently no basis upon which to adopt any alternative scenario. The prediction methodology used is the same as that described in the Northampton Gateway ES when considering the potential impacts of that scheme alone as Rail Central produced no predictions of railway noise. Requirements 23(2) and 23(3) of the dDCO make provision for the monitoring of railway noise during the night-time period to provide the necessary safeguard should the likely significant adverse effects not be avoided by quieter rolling stock becoming available as expected." [REP6-011, para 4.59]

Other matters

- 7.3.65. SRNG submitted details of noise measurements carried out in locations around the Main Site which it claimed demonstrates that ambient noise levels at receptors there are already significant [REP1-054]. In response, the Applicant noted that the results may have represented the noise level at the time of measurement but that there was insufficient information to determine what kind of decibel levels had been measured. Furthermore, for any assessment a degree of averaging would be necessary to determine what the typical noise levels would be at a particular location [REP4-011].

The ExA's considerations

- 7.3.66. Through both its initial and further set of written questions and questioning at the relevant ISHs, the ExA sought to query and clarify various aspects of the Applicant's assessments as set out in ES Chapter 8 and its relevant appendices.
- 7.3.67. As a result of answers and clarification provided, whilst having careful regard to the criticisms made, we are satisfied that the assessment undertaken is sufficiently robust to provide meaningful outputs that can be relied upon.
- 7.3.68. Having regards sound levels from the Main Site and how these have been assessed in context, RC did not query this aspect further following the Applicant's explanation at D3 [REP3-008], whilst other aspects of the Applicant's approach were pursued.
- 7.3.69. Regarding construction noise from the Main Site, even if SOAEL were to arise at the lower levels suggested by RC than the threshold values used by the Applicant in Table 1 of Appendix 8.12 of the ES [APP-197], the table indicates there would be only four receptors that could be affected. These

are properties that are already identified as potentially falling between LOAEL and SOAEL. This would be during the daytime only since construction work would be restricted by Req 21 of the dDCO to 07.00 – 19.00 weekdays and 07.00 to 16.00 on Saturdays. However, we are content that the Applicant's specified thresholds are not inappropriate, particularly as SNC does not take issue in this regard.

- 7.3.70. Having regards to the deferment of assessment of warehouse and other mechanical plant, the ExA considers the Applicant's approach to be appropriate within the context of the judgement on *Milne v Rochdale*. Assessment of noise from plant associated with future warehouse uses, and other noise-making machinery, the nature of which at this stage are unknown, would be secured through Req 23(1) of the recommended dDCO.
- 7.3.71. The ES refers to the work being carried out at a European level to reduce the noise from freight trains. Req 23(2) and (3) of the recommended dDCO require monitoring of operational railway noise. This is to assess whether in future years any significant adverse effects to residential properties from night-time maximum noise levels have arisen and, in which case, relevant noise insulation schemes for the concerned properties should be implemented. The function of these elements of the requirement is to provide a means of checking that the quieter rolling stock has come into use as expected. The years included in the requirements reflect the assessment years for the scheme. The requirement is agreed with SNC and we consider this to be necessary to provide appropriate safeguards.
- 7.3.72. Req 24 of the recommended dDCO requires assessment of noise during construction and operational phases of the Proposed Development in the event of complaints of alleged noise nuisance. Methodology is to be agreed with the relevant planning authority and appropriate remedial measures taken in the event that the effect of noise is greater than anticipated.
- 7.3.73. SNC has considered the noise impacts of the Proposed Development and, whilst initial concerns were expressed about certain aspects of assessment, there is now an agreed SoCG. This indicates that SNC, as the relevant enforcing authority in respect of noise, is content that impacts would be acceptable and are appropriately addressed by Reqs 22, 23 and 24.
- 7.3.74. The updated CEMP [REP6-003] provides additional measures to ensure that construction activities and traffic minimise disturbance in terms of both noise and vibration. These include following guidance given in BS 5228-1: 2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites Part 1: Noise relating to Methods of Work. This would be incorporated, as appropriate, within the method statement which would form the basis for the implementation of construction works.
- 7.3.75. Check monitoring would be undertaken at the start of different phases of works to determine whether noise levels from construction activities would be as predicted in the relevant P-CEMP for that phase of work.
- 7.3.76. Prior to any construction work commencing a construction monitoring protocol would be agreed with the relevant planning authority. This would

establish the frequency, duration and location of noise monitoring. It would also identify the construction noise thresholds at the appropriate receptor locations, with the protocol being followed if thresholds are exceeded or any complaints are received. The submission and approval of P-CEMPs, which should be in accordance with the CEMP (which is to be a certified document), is secured by Req 12 of the recommended dDCO.

7.3.77. We are satisfied that the designed-in mitigation for the Main Site and the Roade Bypass, together with the controls provided through the requirements in the recommended dDCO, are adequate to ensure no significant adverse impacts as a result of noise generation associated with the Proposed Development. The Roade Bypass would lead to lesser volumes of traffic through the centre of the village, leading to a reduction in traffic noise for more properties than would experience greater noise as a result of traffic along the Bypass. This would be a beneficial aspect of the Proposed Development. It would accord with the third bullet of paragraph 5.195 of NPSNN, which seeks to contribute to improvements to health and quality of life through the effective management and control of noise, where possible.

7.3.78. We have noted the work carried out on cumulative assessment, with particular reference to impacts that might arise should the RC proposal also go ahead. At the closure of the NG Examination RC was undertaking further assessments of the traffic implications of its project. We consider that any cumulative impact assessment would be more appropriately addressed within the context of the RC Examination and the evidence and circumstances pertaining at that time.

Conclusion on Noise and Vibration

7.3.79. Taking all relevant documents and policies into account, the ExA concludes that:

- the Proposed Development would not lead to significant adverse impacts in terms of construction or operational noise and vibration once suitably and appropriately mitigated and would be compliant with NPSNN paragraphs 5.193 – 5.200; and
- the provision of the Roade Bypass would reduce the number of residential properties within the village exposed to the highest levels of road traffic noise. This would represent a benefit of the Proposed Development.

7.4. BIODIVERSITY, ECOLOGY AND THE NATURAL ENVIRONMENT

Introduction

7.4.1. This section considers the effect of the Proposed Development on biodiversity, ecology and the natural environment. Within scope are the following considerations:

- International sites, (such as Special Areas of Conservation, Special Protection Areas (SPA) and Ramsar sites), national sites (Site of Special

- Scientific Interest (SSSI)) and locally protected habitats (including designated Local Wildlife Sites (LWSs) and potential LWSs);
- protected species.

Policy Considerations

- 7.4.2. NPSNN paragraphs 5.24 to 5.35 identify the biodiversity considerations to which the SoS must have regard. Paragraphs 5.36 to 5.38 consider biodiversity mitigation.
- 7.4.3. Paragraph 5.23 requires the Applicant to "*show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests*". 'Biodiversity 2020; A Strategy for England's wildlife and ecosystem services' builds on the Natural Environment White Paper, (NPSNN, paragraph 5.20 identifying the latter as an important and relevant consideration) and sets out a strategic direction for biodiversity policy for the next decade.
- 7.4.4. Paragraphs 5.27 to 5.31 explain how the Proposed Development should respond to the site protection system, from international via nationally to regionally and locally designated sites. Paragraph 5.31 makes clear that regionally and locally protected sites (including LWSs) should receive due consideration but, given the need for national networks infrastructure, will not in themselves provide a basis for refusing an application for development consent.
- 7.4.5. Paragraphs 5.34 and 5.35 explain the approach to be taken to protected species, which should be protected from the adverse effects of development. Requirements and planning obligations should be used to secure the necessary levels of investigation and protective action. Development consent should be refused where harm would result, "*unless the benefits of the development (including need) clearly outweigh that harm*" (para 5.35). Paragraphs 5.36 to 5.38 identify that appropriate construction and operational mitigations, taking account of observations by and agreements with NE, should be provided and secured.
- 7.4.6. Section 15 of the NPPF contains policies for conserving and enhancing the natural environment, which are closely aligned with considerations to be taken into account under the NPSNN.
- 7.4.7. Various local planning policies are also relevant. Policies include BN1, BN2 and BN3 of the WNJCS. These in turn seek to incorporate and enhance green infrastructure connections and secure their long-term management, maintain and enhance existing designations and assets or deliver a net gain in biodiversity and support proposals to enhance and create new woodlands. Protection of trees and woodland, hedgerows, ponds and other landscape features and species are sought through saved Policies EV19, EV21 and EV24 of the South Northamptonshire Local Plan.

The Applicant's Case

7.4.8. ES Chapter 5 addresses ecology and nature conservation [APP-088]. It assesses the likely significant environmental effects in terms of the features of ecological importance that are present within and adjacent to the Proposed Development. The ES is supported by a considerable number of Appendices, which include details of surveys and a Landscape and Environmental Management Plan (LEMP) [APP-136 to APP-168]. The LEMP was updated during the course of the Examination [REP3-012].

7.4.9. The approach taken to assessment is summarised at ES paragraph 5.3.7;

"The activities associated with the construction and implementation of the Proposed Development have been identified, together with the likely range within which their influence will be felt, given the nature of the area. The ecological features that may be affected by such activities have been evaluated within a geographical framework which is based on the ecological status of the features, but which also reflects a wide range of legislation and governmental guidance. An assessment of the nature conservation importance of features (sensitivity) has been made.... The potential impacts of the Proposed Development are predicted; taking into account different stages and activities within the development process".

Habitats

7.4.10. The search area for designated sites which might be affected by the Proposed Development was 10km for sites of international importance, 2km for sites of national or regional importance, and 1km for sites of county importance (LWSs, pLWSs) and for Species of Principal Importance, UK Biodiversity Action Plan (BAP) Priority Species or Red Data Book species. These search areas are based on professional ecological judgement and an understanding of the Proposed Development sites and the nature of designated sites likely to be affected. The zone of influence varies for different ecological features depending on their sensitivity to environmental change [REP1-020, Applicant's response to ExQ 1.2.3].

7.4.11. The following assets were identified:

Statutorily designated sites

- Upper Nene Valley Gravel Pits SPA / Ramsar
- Upper Nene Valley Gravel Pits SSSI
- Roade Cutting SSSI

The SPA / Ramsar is discussed separately in Chapter 8 below.

Locally / non-statutorily designated sites

7.4.12. The following non-statutorily designated LWSs are designated because they support ecological features that are considered to be of County importance:

- Collingtree Golf Course LWS
- Roade Quarry LWS

- Grand Union Canal- Northampton Arm LWS
- Hunsbury Hill Country Park LWS
- Roade Quarry LWS
- Shelfleys Lake LWS
- Stoke Bruerne Brickpits LWS
- Stoke Park Fish Ponds LWS
- Wootton Railway Embankments LWS⁶⁷

- 7.4.13. In addition to the above, Table 5.8 of the ES [APP-088] refers to ten pLWSs, one of which, Highgate Wood, lies within the Main Site, with Roade Cutting and Roade Field partially within the Bypass Corridor. Also, an area of the 'Middle Nene' section of the Nene Valley Nature Improvement Area overlaps the east boundary of the Main Site.
- 7.4.14. The habitats noted for their ecological features that would be affected by development at the Main Site, the Roade Bypass or in connection with other highway mitigation works, are summarised in ES Table 5.12 and illustrated on Figures 5.2 and 5.3 [APP-088]. These include the woodland of the mixed plantation of Churchills, on the Main Site, areas of semi-improved grassland, ponds, running water, dry ditch, field margins, a single veteran tree and various hedgerows. All habitat types are classed as of local importance. The exception is a series of hedges on the Main Site and within the Bypass Corridor that are important under the Hedgerow Regulations 1997 and meet the criteria for selection as LWS habitat, Habitat of Principal Importance or Priority Habitat of Northamptonshire BAP. These are of County importance.
- 7.4.15. In terms of fauna, badgers, assemblages of breeding farmland and woodland birds, a variety of other bird species, invertebrates, common lizard and grass snake are all of local importance. Otters, also of local importance, make occasional use of the watercourse towards the southern end of the Main Site. Barbestrelle bats make use of habitats on the Bypass Corridor and, together with great crested newts within ponds on the Main Site and close to the Bypass Corridor, are of County importance.
- 7.4.16. The ES has assessed the unmitigated likely significant effect on habitats and species as a result of the Proposed Development during construction and when operational. Constructional effects could result in habitat loss, accidental pollution events, physical damage to retained vegetation, and soils and dust deposition.
- 7.4.17. For all habitats and species significance of effects are assessed as either negligible or minor with the exception of great crested newts near the Bypass Corridor. Here, without mitigation there could be a risk of accidental killing or injury during construction, but the impact is assessed as no more than minor / moderate. Also, inadvertent damage, such as soil compaction and disturbance to retained vegetation and soils, could undermine the long-term viability of habitats such as woodland, the veteran tree, grassland and

⁶⁷ ExQ 1.2.2 sought clarity on the list of LWS and pLWSs since the list within ES Chapter 5 did not match that in Table 1 of Appendix 5.1 [APP-136]. The Applicant confirmed in response [REP1-020] that the list within the ES and as set out above was correct and a revised Appendix 5.1 was submitted [REP1-020, Appendix 12] Northampton Gateway SRFI TR050006
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hedges. There would be potential for adverse impacts of local-County significance upon grasslands and of local-County significance on hedges.

Mitigation

- 7.4.18. Avoidance measures have been built into the layout of the Proposed Development and include:
- woodland, hedges and mature trees have been retained within the Proposed Development wherever possible;
 - minimising the loss of neutral grassland of the hay meadow of Roade Field pLWS that lies adjacent to the Bypass Corridor;
 - retention of semi-improved grassland adjacent to Highgate at the Main Site;
 - retention of the riparian habitats of RW1⁶⁸ at the Main Site; and
 - retention of pond P1⁶⁹ at the Main Site.
- 7.4.19. The Proposed Development's green infrastructure would include a substantial area of informal space, comprising a range of semi-natural habitats. These would provide mitigation for the loss of habitat through the provision of the following:
- creation of an inter-connected mosaic of habitats, including woodland and scrub across the proposed green infrastructure;
 - creation of species-rich grasslands that are characteristic of the county;
 - creation of a network of wetland features as part of the sustainable drainage scheme, with marginal plant species similar to those associated with Collingtree Golf Course LWS;
 - planting of heavy standard trees; and
 - planting of species-rich hedgerows.
- 7.4.20. The Proposed Development would result in the net gain of: some 25.15ha of woodland / tree groups / structural / scrub planting; 3ha of water features / wetlands / ponds; 22.20ha of semi-improved / species -rich / meadow/ non-agricultural grassland; and 5,100m of hedgerows [APP-088, Table 5.13].
- 7.4.21. To mitigate impacts on fauna within the Main Site the following are designed into the Proposed Development:
- retention of pond P1, which supports a large great crested newt population;
 - retention of grassland adjacent to Churchills plantation, which supports a small common lizard population; and
 - the retention of boundary features, including woodland, hedges and the watercourse within the Main Site which would ensure that habitat connectivity to the surrounding area is maintained for fauna, including badgers, bats and otters.

⁶⁸ Figure 5.2 [APP-088]

⁶⁹ Figure 5.2 [APP-088]

- 7.4.22. The CEMP⁷⁰ sets out the principles that would ensure best working practices are adopted during the construction phase. The contents of the CEMP at section 15 adhere to and where necessary provide further detail on the measures outlined in the ES for the protection of designated sites, habitats and fauna. Phase-specific CEMPS (P-CEMPS), which should adhere to the principles set out in the CEMP, are secured by Req 12 of the recommended dDCO.
- 7.4.23. Measures, including pre-commencement surveys, to protect risk to fauna, including badgers, bats, great crested newts, reptiles, birds and other species, are set out in the CEMP.
- 7.4.24. The majority of habitats that would be lost to the Proposed Development are arable fields of low intrinsic nature conservation value. As a result, mitigation of impacts associated with land-take would largely involve the sympathetic management of retained habitats and buffer zones. Opportunities for habitat creation and enhancement would be taken following the principles in the Illustrative Master Plan. Habitat creation and management principles would include:
- significant woodland planting;
 - the creation of neutral grassland;
 - the creation of ponds to mitigate the loss of two existing ponds on the Main Site; and
 - both hedgerow translocation (of sections that are of County importance) and planting which would be designed to maintain the level of connectivity within the existing hedgerow network.
- 7.4.25. Requirements 8 and 9 of the dDCO would secure the detailed design approval of components of the Main Site, whilst Req 10 secures the provision of landscaping. Req 3 ensures that components of the development and their phasing are agreed prior to the start of development. Requirement 15 ensures the approval of details of lighting, which would assist in mitigating impact for bats, discussed further in section 7.7 of this Report.
- 7.4.26. The Landscape and Ecological Management Plan (LEMP) [REP3-012] is a conservation-led plan detailing a set of objectives and associated management prescriptions aimed at benefiting biodiversity over the long-term. Its focus would be on the effective management of all retained semi-natural and newly created habitats. It would ensure that the Proposed Development contributes to the aspirations and targets of the Northamptonshire BAP. It includes enhancements such as the provision of bird and bat boxes, and methods to manage any increase in recreational pressure upon non-statutory sites of nature conservation interest. The LEMP and adherence to it is secured by Req 11 of the dDCO.
- 7.4.27. Taking into account the designed-in mitigation and that which would be secured, the ES concludes that for both construction and operational stages

⁷⁰ The CEMP was updated during the Examination, the final version being V.4 [REP6-003]

residual impact on important ecological features of fauna and habitats in most cases would be negligible.

7.4.28. The exceptions would be during construction [APP-088, section 5.7]:

- some loss of calcareous grassland habitat from the un-named Roade Cutting pLWS where the adverse residual impact would be of no more than local significance;
- loss of arable fields on the Main Site would be an adverse impact of local significance for golden plover and in terms of loss of wintering habitat for skylark, lapwing, linnet and yellowhammer;
- the Bypass Corridor would result in a residual adverse impact on breeding skylark of local significance;
- a short-term adverse impact of local-County significance resulting from the loss of hedgerows;
- a short-term adverse impact of local significance for foraging badgers;
- a short-term adverse impact of local significance for the local bat population resulting from the loss and fragmentation of regularly used foraging habitat during the clearance of the Main Site, and possible vehicle collision; and
- a short-term adverse impact of local significance to bullfinch, buzzard, mistle thrush, song thrush and stock dove from the loss of woodland, hedgerows and trees on the Main Site.

7.4.29. Some of the short-term adverse impacts would reduce to being of negligible significance with the establishment of new habitats (for bats and wintering birds on the Main Site).

7.4.30. There would be beneficial impacts of local significance resulting from the greater provision of ponds, the re-establishment of hedgerows, foraging habitats for badgers, new habitats for breeding birds, great crested newts and invertebrates on the Main Site.

7.4.31. Cumulative impacts of the Proposed Development with the committed developments of the Northampton South and Brackmills SUEs have been considered. The ES concludes that:

"The distances and relationships between the Proposed Development and these sites, plus the over-arching policy requirement to minimise harm and seek to deliver a net gain in biodiversity through all major development proposals, means the scope for significant cumulative effects is considered to be very limited".

7.4.32. The ES also considered cumulative effects with the adjacent RC proposal, based on RC's draft ES and other emerging documentation at the time. The cumulative assessment was revisited in the Applicant's UCIA in light of the submitted and accepted RC application [AS-040]. The RC site shares very similar baseline characteristics with the Proposed Development. There would be some likely cumulative impact on bats, great crested newts, farmland birds and badgers. On the basis that a similar range of mitigation measures are likely for the RC site, the UCIA suggests that the residual cumulative effects are likely to be negligible or no worse than minor.

Planning Issues

- 7.4.33. Natural England (NE) in its RR [RR-622] indicated that, as far as matters within its remit were concerned, it had no objections to the Proposed Development provided there were safeguarding measures for the Roade Cutting SSSI contained within the CEMP. This was reiterated in response to the Rule 6 letter [AS-029] and the position was confirmed in an agreed SoCG [REP1-018]. The SoCG notes that proposed habitat retention and creation would compensate for habitat losses for fauna of interest and that further mitigation for protected species would occur to ensure that relevant legislation is complied with. The final version of the CEMP [REP6-003] states that all works close to or within the Roade Cutting SSSI shall be carried out in accordance with a method statement to be prepared and included in the relevant P-CEMP and agreed with NE.
- 7.4.34. The Applicant submitted draft bat and great crested newt mitigation licences to NE. These are designed to provide confidence that NE, as the competent licensing authority, sees no impediment to issuing a licence in future, based on the information assessed to date. Formal applications would be submitted to NE if the DCO is consented. NE has issued 'letters of no impediment' in respect of both bats [REP5-003] and great crested newt [REP5-006].
- 7.4.35. In its LIR, SNC noted that whilst loss of suitable farmland habitat for a range of birds would not be mitigated and that effect on these would be more than negligible, impact would not be significant [REP1-037]. It agrees that if measures are implemented, including the translocation of hedgerows and grassland, retention of woodland areas and the provision of new ponds, these would offset adverse effects.
- 7.4.36. A small number of representations have expressed some generalised concerns regarding loss of countryside, loss of interconnection between habitats and impact on some pLWSs [eg REP1-048, REP1-053, REP1-054, REP1-093 and REP1-111].
- 7.4.37. In its D3 submissions RC included a copy of a draft SoCG with the Applicant [REP3-016, Appx 2]. Whilst noting that the biodiversity surveys employed are appropriate and adequate, under 'Matters Not Agreed' at paragraph 3.2.2 it is suggested that a complete biodiversity assessment had not been completed as part of the NG application. As a result, sufficient confidence couldn't be placed in various conclusions drawn regarding certain aspects of biodiversity. These related to great crested newts, bats and the translocation of hedgerows of County importance. In its response [REP4-010], the Applicant indicated that the draft SoCG was unacceptable not least because it had errors of fact and was misleading. The SoCG remained in draft only and was not elaborated upon further.

The ExA's Considerations

- 7.4.38. Having reviewed the ES, we are satisfied that the Applicant has undertaken a detailed characterisation of the natural environment affected by the Proposed Development, both directly and indirectly. We have noted the implied criticism of biodiversity assessment by RC in the draft SoCG with the

Applicant. However, we are satisfied that the significance of biodiversity assets and the significance of effects upon them have been appropriately assessed and mitigation measures designed where necessary.

- 7.4.39. The LEMP indicates a management regime for habitats would be reviewed after five years. In ExQ 2.2.5 we asked how ongoing management and maintenance would be secured beyond the first five-year survey and review [PD-010]. In response, the Applicant added Req 11(2) to the dDCO to require ongoing management and maintenance to be agreed with the relevant planning authority and carried out in accordance with the principles in the LEMP [REP5-021]. We consider this to be an important safeguard to ensure continuing effective mitigation.
- 7.4.40. The Applicant's UCIA indicates that it considers there to be some gaps and weaknesses in RC's baseline survey assessments which make it hard to reach definitive conclusions regarding the nature of residual impacts there. The Examination of the RC proposal is not now likely to start until December 2019. We therefore consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining at that time. Nonetheless, in responding to the Applicant's UCIA, RC indicated that there is no fundamental disagreement that there would be no cumulative effects on biodiversity from the two projects [REP5-026].
- 7.4.41. It is inevitable that a development of the scale proposed would lead to loss of some present habitats and have resulting impacts on some fauna. This is acknowledged by the NPSNN in stating that development should avoid significant harm to biodiversity (para 5.25). However, much of the land that would be transformed is farmland with little present biodiversity value.
- 7.4.42. No impacts would be significant in EIA terms and the majority of adverse effects associated with the Proposed Development would be offset in the mid- to long-term through the creation and management of various ecological components. Gains would be achieved through the establishment of habitat features which would provide improved habitat for local fauna, including amphibians and invertebrates.
- 7.4.43. The approaches to mitigation of impacts set out in the CEMP and in respect of which phase-specific P-CEMPs would need to accord, are appropriately secured in the recommended dDCO. This is similarly the case with the LEMP. The measures proposed are adequate to ensure that NPSNN and development plan policy for the natural environment are met.

Conclusion on Biodiversity, Ecology and the Natural Environment

- 7.4.44. Taking all relevant documents and policies into account the ExA concludes:
- there would be no direct impacts on internationally or nationally designated sites, nor on any LWSs;
 - mitigation would ensure adequate protection for all identified habitats and fauna, including protected species, from significant adverse effects;

- mitigation would include substantive net gains in woodland, structural and shrub planting, water features, non-agricultural grassland and hedgerows. This mitigation would represent a net benefit of the Proposed Development; and
- the Proposed Development would be compliant with policy within the NPSNN aimed at protecting habitats and species and ensuring mitigation of impacts, and with the thrust of policies on these matters in the WNJCS and the South Northamptonshire Local Plan.

7.5. HISTORIC ENVIRONMENT

Introduction

- 7.5.1. This section addresses the impact of the Proposed Development on cultural heritage matters. A particular issue that was discussed during the Examination was the adequacy or otherwise of the Applicant's assessment of impact on potential archaeological assets.

Policy Considerations

- 7.5.2. NPSNN paragraphs 5.128 to 5.142 identify the historic environment decision-making considerations to be taken into account by the SoS. Paragraph 5.131 notes that when considering the impact of a Proposed Development on the significance of a designated heritage asset, the SoS should give great weight to the asset's conservation.
- 7.5.3. Paragraph 5.127 requires an applicant to *"... describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance"*.
- 7.5.4. Paragraph 5.142 states that:
- "Where there is a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the Secretary of State should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction"*.
- 7.5.5. Much the same approach in respect of the historic environment is shared by the NPPF, with an emphasis on assessing the significance of any historic assets and the likely impacts on them. There is a requirement to weigh any harm against the wider benefits associated with Proposed Development, with greater relative weight given to any harm to the most significant assets. Section 16 of the NPPF deals with the conservation and enhancement of the historic environment. Paragraph 197 notes that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.5.6. The WNJCS contains a number of policies aimed at ensuring the proper consideration of impacts on, and the protection of, heritage assets. These

include Policies BN5 which, amongst other matters, notes that in environments where valued heritage assets are at risk, the asset and its setting will be appropriately conserved and managed. Policy EV11 seeks to protect from adverse effects the setting of conservation areas and views into and out of such areas.

The Applicant's Case

- 7.5.7. ES Chapter 10 deals with cultural heritage [APP-113]. This is supported by a number of other documents including a Built Heritage Statement [APP-219], an Archaeology Desk-based Assessment [APP-220], geophysical surveys [APP-221, APP-222], evaluation trenching reports for both the Proposed Development Main Site and the adjacent RC site [APP-223, APP-224], and an Archaeological Watching Brief on Ground Investigations [APP-225].
- 7.5.8. The likely significant impacts on cultural heritage, which includes both built heritage and archaeology, have been assessed. Neither the Main Site, nor the Roade Bypass Corridor, contain any designated built heritage assets. The Collingtree, Milton Malsor and Roade Conservation Areas, have been assessed as likely to be affected by development on the Main Site⁷¹. These contain a number of Grade II and II* listed buildings. The list of heritage assets considered is set out in Table 10.4 of ES Chapter 10 [APP-113].
- 7.5.9. The Grade II Courteenhall Registered Park and Gardens, which also contains three grade II* listed buildings, almost abuts the south-eastern corner of the Main Site. Three Grade II listed buildings would be impacted by the Roade Bypass – Hyde Farm House and the remains of a dovecote, and the Roade aqueduct which spans the WCML⁷². The proposed alterations to the junction of Blisworth Road with the A508 would have an impact on the Grade II listed Courteenhall War Memorial, which stands adjacent to the A508 to the south of the junction. The location of these assets is shown on Figure 10.1 of ES Chapter 10 [APP-113].
- 7.5.10. Having regards to designated heritage assets, following assessment including visual impact, lighting, noise and vibration, the ES concludes that at both construction and operational stages of the Proposed Development the significance of effects would be only minor adverse for the listed buildings and negligible adverse for the Conservation Areas of Collingtree and Milton Malsor. In respect of the Courteenhall Registered Park and Garden and its associated listed buildings, the significance of effect is assessed as being minor adverse at both construction and operational stages.
- 7.5.11. The Roade Conservation Area lies to the eastern side of the A508 and would not be directly affected by the Roade Bypass. However, by drawing traffic

⁷¹ The ES notes that the Blisworth Conservation Area lies outside the visible limits of the proposals and it is considered it would not be functionally impacted

⁷² Although ES Chapter 10 states at para 10.5.8 that the aqueduct is contained within the Roade Bypass Corridor, the aqueduct lies beyond it as shown on Figure 10.1

away from the A508 passing through the village, the ES notes there would be a minor beneficial impact for the significance of this designated asset.

- 7.5.12. Within the Main Site are two limestone-built barns which are considered to be worthy of non-designated heritage asset status. To allow the Proposed Development these would need to be demolished, which the ES assesses as being a minor / moderate adverse effect in terms of significance. The significance of one of the buildings has been reduced through its apparent rebuilding and renovation and is only assessed as of local interest. The significance of the second barn, despite its poor condition, derives from its architectural and aesthetic value and demonstrates 19th century farming practices. The building is assessed as of only low (local) value [APP-219].
- 7.5.13. An unsigned SoCG [REP1-017] with Historic England in respect of built heritage and archaeology notes that the Applicant's Built Heritage Statement was undertaken in accordance with recognised guidance. There is agreement that any harm to designated heritage assets would be less than substantial and should be weighed against the public benefits of the scheme.
- 7.5.14. Whilst the Proposed Development would result in the removal and / or partial loss of some hedgerows, what is recognised as an ancient parish boundary hedge is to be retained in the southern part of the Main Site. The ES recognises there would be a minor to moderate adverse effect in respect of hedgerows that are part of the historic landscape. However, mitigation includes the relocation of important hedgerows (secured through the operation of the LEMP) and this would reduce potential impact.
- 7.5.15. Cumulative effects on built heritage have been considered in respect of the South of Brackmills SUE and the Northampton South SUE [APP-113]. In the former case this is too far removed from the Proposed Development to result in any significant cumulative effects or to share any receptors.
- 7.5.16. The Northampton South SUE has the benefit of planning approval, with the retention of trees and a proposed open space buffer between development and Collingtree village. There would be negligible effects on the setting and significance of the Collingtree Conservation Area, the Grade II* listed Church of St Columba and the Church of the Holy Cross in Milton Malsor. The likely cumulative effects with this committed (and approved) development remain as assessed for the Proposed Development.
- 7.5.17. The ES considered the potential cumulative impact with the RC proposal, with assessment being based on that project's draft Environmental Impact Statement. The Applicant's ES considered that cumulatively the Proposed Development, the RC proposal and the South Northampton SUE would have a moderate adverse impact on the significance of the Milton Malsor Conservation Area and the Grade II listed Mortimers (an 18th century stone-built house with 19th century alterations). The primary and most apparent impact on these would arise from the RC scheme, which would have a much more direct relationship with these assets than the Proposed Development. This assessment is confirmed in the Applicant's UCIA [AS-040].

Archaeology

- 7.5.18. The archaeological desk-based assessment (DBA) and geophysical survey reports have been produced in accordance with relevant professional standards and guidelines [APP-220, APP-221, APP-222]. Trial trenching has also been carried out and the assessment has been sufficient to present a robust assessment of the archaeological potential and significance of the Proposed Development site [APP-223]. There are no designated archaeological assets recorded by Historic England on the site. The DBA identified potential for Iron Age, Roman and possibly Saxon evidence on the Main Site [APP-113]. Potential was identified for prehistoric and medieval activity in the Roade Bypass Corridor.
- 7.5.19. The DBA concluded that archaeological remains on the site would be of no more than regional significance. Targeted trial trenching took place in areas where the geophysical survey work had identified anomalies likely to be archaeological in origin, and also in areas where the geophysical survey suggested there was little evidence for archaeological anomalies. In the view of the Applicant's consultants, none of the archaeological remains identified were of significance to preclude development. Archaeological matters have been addressed in a manner that is wholly consistent with policy in the NPSNN. The extent of the investigation and analysis undertaken more than satisfies the requirement for the scrutiny of archaeological impacts at the application stage [REP3-005]. With mitigation the significance of residual effects on the archaeological resource would be minor adverse.
- 7.5.20. Cumulative impact on archaeology, taking into account the Northampton South SUE, where similar findings have been made to those within the Main Site, is considered to be negligible when effective mitigation strategies are undertaken [APP-113]. The UCIA noted that there are not considered to be any significant differences between the Main Site and the RC site in terms of effects on archaeology, with proposed mitigation the same for both sites [AS-040].

The Planning Issues

- 7.5.21. SNC in its LIR noted the ES's identification of a number of minor / moderate adverse effects for heritage assets but that, overall, it does not consider the Proposed Development would result in significant impacts on heritage assets [REP1-037]. NBC made no reference to impact on heritage assets in its LIR [REP1-089].
- 7.5.22. RC, in its WR, noted that the Applicant's ES confirms that the Proposed Development would result in no more than a minor impact on the identified listed buildings and conservation areas in proximity to the site; this appears to be on the assumption that the proposed bunding to the Main Site would reduce or mitigate the visual effect of the development [REP1-029]. RC appears critical of the fact that there is no assessment of the bunding itself, which could be considered to affect the heritage assets by creating an incongruous and engineered feature in the landscape; the inclusion of such an assessment might have suggested that significant effects on heritage assets may arise [REP1-029].

- 7.5.23. The ExA sought to clarify the status of the unsigned nature of the SoCG with Historic England [PD-012]. The Applicant responded [REP8-003] having tried to engage with Historic England. It noted in this response that *"whilst it may be considered regrettable that Historic England have not been prepared to engage with the desire for a signed SoCG, the Applicant believes that the relevant confirmation of the position of Historic England is set out in its letter contained in Document 7.14 [REP1-017]"*.
- 7.5.24. This letter effectively confirms what is in the unsigned SoCG that, on the basis of the material submitted to Historic England in respect of built heritage, the Proposed Development is likely to result in a level of less than substantial harm to designated heritage assets. This must be weighed against the public benefits that the development would deliver. The letter also noted in terms of this exercise that if the two non-designated barns on the Main Site are to be demolished they should be subject to a full programme of recording, which should be secured in the dDCO. A requirement to secure this was absent from the Applicant's original dDCO, and therefore the ExA asked for views on whether there should be such an inclusion [PD-009]. As a result, the Applicant added clause (4) to Req 14 of version D of its dDCO [REP5-012].
- 7.5.25. Having regards to the two non-designated heritage assets of the barns on the Main Site, within the above letter Historic England stated its view that total demolition would equate to a high level of harm. It acknowledges, however, that a balanced judgement in accordance with NPPF paragraph 197 is needed in terms of significance.
- 7.5.26. Woodleys Farmhouse, a Grade II listed property on the western side of the A508 to the north of Roade, is not referred to within the Cultural Heritage chapter of the ES [RR-700, REP1-047, REP1-054, REP1-096]. In responding to RR, the Applicant noted that the property is situated approximately 350m at its nearest point from the proposed Roade Bypass. It has a very contained setting, visually enclosed by mature trees. Consequently, the building is not considered likely to be materially affected by the proposals and, as such, does not feature in the assessment of likely effects [REP1-022]. This view was confirmed by the Applicant at ISH2 [REP4-011].
- 7.5.27. Concern has been expressed that there would be material harm to the heritage asset of the Courteenhall War Memorial, with inscriptions on its face not being visible from the proposed new path to its rear [REP1-047, REP1-054]. The ExA sought clarification in ExQ 1.6.1 as to the exact proposals for the memorial and the assertion within the ES that the proposed highway works would not pose any material harm to the asset. The Applicant responded that, whilst there would be a new path created to its rear for pedestrians and cyclists, there would still exist a path to the front of the memorial from which the inscription could be read. No works are proposed to the structure itself and there would be only minor changes to its wider setting, which makes minimal contribution to its significance [REP1-020, answer to ExQ 1.6.1].

- 7.5.28. Concern has also been expressed that through the crossing of the WCML the Roade Bypass and its associated traffic would adversely impact on the setting of the Grade II listed Roade Aqueduct [REP1-047].
- 7.5.29. The Roade Bypass would pass through currently open countryside to west of Hyde Farm House and its associated listed dovecote. Bunding is proposed to provide visual and noise screening from the properties to mitigate impact. As discussed in Chapters 5 and 10 of this Report, minor amendments to this bunding in proximity to Hyde Farm House are proposed in respect of which the owners have expressed concerns in terms of efficacy of screening [REP5-035, REP6-046 and REP7-018]. However, the Applicant considers the minor amendments would not materially increase any adverse impacts [REP6-012]. SRNG, in its WR, also expressed concern as to the assessment of harm to the significance of these assets in terms of impact on their wider setting [REP1-054].

Archaeology

- 7.5.30. In its LIR, [REP1-036] NCC set out its view that, whilst the Applicant considered the Proposed Development site contained only sites of regional significance, NCC believed that this has not been demonstrated. Minimal intrusive archaeological assessment has been undertaken for the Main Site involving 58 trial trenches representing a less than 1% sample, and no trial trenching had been carried out in the Roade Bypass Corridor. As such, the level of assessment made it impossible to provide an informed comment on the potential impact on archaeological remains.
- 7.5.31. This concern was elaborated upon in detail in the County's WR [REP1-035] in which the history of engagement with the Applicant's consultants was set out. In this, NCC noted the view expressed to the Applicant that a 2% sample over the geophysical survey anomalies and 3% of unresponsive areas had been successfully applied to the adjacent RC site. This had led to a better understanding of the presence and extent of archaeology to enable the design of full mitigation proposals for that scheme.
- 7.5.32. NCC's view was that the Applicant's ES provided inadequate information as to archaeological potential, with the level of trial trenching being only some 0.38%. This could be rectified by undertaking a more extensive trenching strategy. If carried out this would result in sufficient information to make an informed decision as to the extent, nature and significance of the archaeological resource. It would ensure that the impact of the Proposed Development was mitigated whether by preservation by record, or in situ. This would ensure that a fully informed mitigation scheme could be developed from the outset, rather than requiring the use of a post-consent evaluation as suggested in Req 14 of the dCO. Concerns as to the level of investigation and the need for outstanding assessments as expressed by NCC is echoed by SRNG in its RR [REP1-054].
- 7.5.33. In response to NCC's WR, the Applicant recorded that with regards the extent of trial trenching the parties had effectively agreed to disagree [REP2-010]. The Applicant noted that the level of trenching undertaken (0.38%)

was broadly equivalent to that carried out at the DIRFT main site (0.42%)⁷³. This was very different to the amount sought by the County Council and emphasised the degree to which there is no standard approach to the extent of trial trenching. With regards to the suggestion that further trenching post-consent would be too late, the Applicant noted that it:

"...is confident in its assessment that the staged approach undertaken (desk-based assessment, geophysical survey of the entirety of the main site and the bypass scheme and trial trenching) undertaken to date has identified the main concentrations of archaeological activity within the proposed scheme and that there will be no significant effects (in EIA terms) on buried archaeological remains. Any concentrations of archaeological remains encountered can be dealt with through programmes of archaeological excavation and dissemination in the same way as is proposed for those areas of archaeological potential already identified".

7.5.34. The Applicant maintained that Req 14 of the dDCO was entirely appropriate [REP2-010]. However, to provide NCC with more comfort, the Applicant had obtained access to land within the Roade Bypass Corridor and had arranged to carry out additional trial trenching in accordance with a written scheme of investigation discussed with NCC.

7.5.35. An addendum to ES Chapter 10 was submitted at D4 [REP4-013] to provide a summary of the results of a post-submission programme of archaeological trial trenching along the route of the Roade Bypass. The Applicant noted that:

"The further trial trenching this addendum is concerned with is not considered necessary in order to determine the likely significant environmental effects of the Proposed Development. The desk based work and field evaluation already carried out is considered sufficient in order to establish that, in line with paragraph 5.127 of the National Policy Statement for Networks. However, the archaeological advisor for Northamptonshire has indicated concern at the extent of trial trenching carried out and, accordingly, further trial trenching was done to try and address that concern".

7.5.36. The additional work identified three areas of low sensitivity archaeological remains, with the assessment that construction of the bypass would lead to a minor adverse significance of effect. A further programme of works is proposed to ensure any potential impacts on buried archaeological remains are identified and recorded if necessary, as provided for by Req 14 of the dDCO.

7.5.37. In response to ExQ 2.5.3, NCC observed that the Roade Bypass evaluation did not take in the entire route of the bypass because of access issues [REP5-042]. It noted that the use of geophysical survey and trial trenching

⁷³ The Applicant also later referred to its consented East Midlands Gateway SRFI, which was a greenfield site and where the total pre-consent and post-consent trenching was approximately 0.46% with only a 0.10% sample pre-determination [REP6-014]

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provided an informed assessment of the archaeological activity within the corridor. Although disagreeing with the assessment of interest and sensitivity in one surveyed area, NCC agreed that the impacts of road construction works could be reduced to minor adverse impact with mitigation.

- 7.5.38. In further answer to ExQ 2.5.4, NCC acknowledged that trial trenching within the Bypass Corridor was a positive step but it did not negate the need for undertaking what it considered to be outstanding trenching on the Main Site. NCC maintained that trenching should be undertaken pre- not post-consent; the Applicant's acknowledgment that further evaluation works are required suggests that, as per NPSNN paragraph 5.127, the Applicant is not able to describe the significance of heritage assets affected apart from in localised areas and within the Bypass Corridor. Also, in answer to ExQ 2.5.5, NCC provided backing for its view that the percentage of trial trenching undertaken was too low, and although there is no 'industry norm', current practice suggests that percentages in excess of 2% are commonplace, and often higher percentages are requested [REP5-042].
- 7.5.39. The Applicant responded [REP6-014] that trenching requirements vary by site and by county and flexible approaches to trenching, which do not rely on percentage figures, are often agreed pre-determination. It is of the view that the approach taken of trial trenching targeted areas where archaeological potential is suggested by geophysical survey, and areas where a dearth of archaeological features are suggested, has been successful both in determining the greatest concentration of remains, and also their significance. *"None of the archaeological remains identified are of national significance, and none of the impacts identified are significant in EIA terms. It is acknowledged that further trial trenching of areas will be carried out under the requirement. The purpose of this trenching would be to inform the recording strategy."*

The ExA's Considerations

- 7.5.40. Matters raised in representations and responses as the Examination progressed have been carefully considered. The ExA's assessment of these matters has also been assisted by what has been seen on both accompanied and unaccompanied site inspections.
- 7.5.41. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, we have had regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Having reviewed the evidence in terms of built heritage, we find that there is no reason to depart from the overall assessment within the Applicant's ES that the Proposed Development would not lead to anything other than minor adverse effects on the significance of protected heritage assets through impact on their setting. Having regards to the ES, we have no reason to suppose that the Applicant's assessment of impact on cultural heritage elements failed to have regard to the specific element of the bunding around the Main Site.

- 7.5.42. Any harm to heritage assets through impact on their setting would be less than substantial. We are supported in this conclusion by the views of Historic England. The overall design and siting of the Proposed Development, coupled with the suite of requirements and the securing of the LEMP, and P-CEMPs to accord with the CEMP, within the recommended dDCO, would serve to avoid or minimise conflict between the conservation of heritage assets and any aspect of the proposals.
- 7.5.43. Demolition of the two barns within the Main Site would result in the loss of heritage assets of only local significance and interest and their recording pre-demolition would be secured through Req 14(4). Nevertheless, the loss of these non-designated heritage assets represents a minor negative aspect of the Proposed Development. This needs to be weighed against the benefits, as indeed does the less than significant harm to designated assets.
- 7.5.44. We have carefully considered the arguments advanced by NCC as to the current adequacy of the archaeological investigation that has been carried out; in particular, its view that more should be done to fully establish the likelihood of any significant impact on the archaeological resource pre-consent. The level of assessment carried out in terms of trial trenching falls short of that which the County would wish to see, although it roughly equates to assessments carried out at DIRFT and at the East Midlands Gateway consented SRFI.
- 7.5.45. We accept that additional comfort would have been provided that any archaeological resource could be appropriately mitigated had additional work been carried out to inform the Examination. Nonetheless, from the results of the work that has been completed, and from the evidence provided, we are content that at this stage the Applicant's archaeological investigations are adequate to meet the tests of the NPSNN at paras 5.127 and 5.142.
- 7.5.46. Further archaeological work would need to be undertaken through the operation of Req 14 as now proposed in the recommended dDCO if consent is granted. Such further investigation would be subject to the approval of the relevant planning authority (whom we assume would be guided by appropriate archaeological advice). In our view, this provides a sufficient safeguard to ensure that any archaeological discoveries that might be forthcoming would be adequately mitigated either in situ or through preservation by recording.
- 7.5.47. During the Examination the ExA posed questions as to how archaeological work carried out, and that which would remain to be done, relates to the case of *R. v. Cornwall CC ex parte Hardy [2001] Env LR 473*. That aspect is fully considered in Chapter 11 of this Report below.
- 7.5.48. Having regards to cumulative impacts, we agree that together with the South Northampton SUE the Proposed Development would result in only minor or negligible impact to the significance of heritage assets in Milton Malsor and Collingtree through effect on their setting. Assessment has been carried out in terms of cumulative impact with the RC proposal. However, as already noted, the Examination of the RC application is not now likely to start until December 2019. We therefore consider that any cumulative impacts with

that proposal would be more appropriately addressed within the context of its Examination, when and if it takes place.

Conclusion on the Historic Environment

7.5.49. Taking all relevant documents and policies into account, the ExA concludes:

- impacts on the historic environment, including the potential archaeological resource, have been sufficiently assessed and would be mitigated. They are capable of being managed as part of the recommended dDCO requirements;
- there would be less than significant harm in respect of impact on the setting of the Collingtree and Milton Malsor Conservation Areas, the Courteenhall Registered Park and Gardens, the listed Churches of St Columba and the Holy Cross, Mortimers, the Courteenhall War Memorial, Hyde Farm House and associated dovecote, and the Roade Aqueduct. In all cases the impact would be either minor adverse or negligible and in respect of listed buildings their setting would be preserved;
- the loss of two non-statutorily designated heritage assets of local significance would be a minor negative aspect of the Proposed Development; and
- the Proposed Development would be compliant with NPSNN paragraphs 5.128 - 5.138 and relevant policies within the WNJCS.

7.6. AGRICULTURAL LAND

Introduction

7.6.1. This section addresses the effects of the Proposed Development on agricultural land.

Policy Considerations

7.6.2. NPSNN at paragraph 5.168 identifies that the SoS should “*take into account the economic and other benefits of the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification)*”. Applicants are required to identify any effects and seek to minimise the impacts. Brownfield land, and development of land in the lowest categories of quality, are encouraged over sites in the higher quality categories.

7.6.3. The NPSNN at paragraph 5.176 further states that “*little weight should be afforded to the loss of agricultural land in grades 3b, 4 and 5, unless in areas such as uplands where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy*”.

7.6.4. Policy R2 of the WNJCS seeks, amongst other things, to protect the best and most versatile agricultural land and is therefore broadly consistent with the NPSNN.

The Applicant's Case

- 7.6.5. ES Chapter 8 [APP-117] considers agricultural land and is supported by technical appendices [APP-118], [APP-119], [APP- 120] and [APP-121]. The chapter identifies that the Proposed Development site would cover a total area of approximately 290 ha, of which approximately 220 ha is currently in agricultural use. The only buildings on site are two small clusters of farm buildings / huts in the eastern and south-central areas of the Main Site. These buildings are scheduled to be removed as part of the construction of the Proposed Development. The Applicant's assessment of agricultural land considers effects on two receptors; soil resources and agricultural land resources.
- 7.6.6. The majority of the Main Site falls within the ownership of the Courteenhall Estate. The Bypass Corridor consists of different land holdings and ownerships, and is a mixture of arable crops, and sheep and beef pasture. At the time of the baseline survey, most of the agricultural land at the Main Site was in arable use, with a bean crop on the southern and western parts. It is understood that a pea crop had recently been harvested from the northern and eastern parts of the site. The remainder of the site comprises mixed woodland and wooded field boundaries, farm buildings / hardstandings, farm tracks and railway embankments.
- 7.6.7. The Agricultural Land Classification system, published by the former Ministry of Agriculture, Fisheries and Food, grades land into five grades, 1 (excellent quality) to 5 (very poor quality). In 1988 a revision of the classification divided grade 3 into two sub-grades 3a and 3b and land in grades 1 to 3a was termed the best and most versatile agricultural land (BMV). The agricultural land on the Proposed Development site is a mixture of grade 2, sub-grade 3a and sub-grade 3b land. The Proposed Development would result in the permanent loss of 12.2 ha of grade 2 land and 21.2 ha of sub-grade 3a land.
- 7.6.8. In respect of soil types, both the Main Site and the Bypass Corridor are dominantly heavy-textured, slowly permeable types. Patches of the Main Site have deep medium-textured permeable soils, whilst shallow permeable soils over limestone occur in southern parts of the Bypass Corridor. In total approximately 51 ha of permeable soils with medium textured (high quality) top soils have been identified. It is noted that the agricultural land is intensively managed and none of the soils support valuable habitats.
- 7.6.9. An area in the southern part of the Main Site, which amounts to 44.3 ha, would be retained in agricultural use by the existing landowners. This area would include some new landscaping and planting which would be associated with the Proposed Development. Although this area did not form part of the baseline survey, the Applicant contends that it is likely to be of similar quality to that which was surveyed; being mainly subgrade 3b with patches of BMV. It is not therefore anticipated that the soil resources in this area of the site would be affected.
- 7.6.10. Due to the small amount of land required for the Highway Mitigation Works, and as most of the proposed works are on highway land, any small areas of
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agricultural land affected through realigned junctions or road widening is so small as to be considered of negligible significance.

- 7.6.11. The Applicant states that the loss of the grade 2 and 3b land is regarded as moderate adverse. However, as most of the agricultural land which would be lost falls within the lowest categories of quality, emphasis is placed on paragraph 5.176 of the NPSNN which states that the loss of lower categories of agricultural land are to be given '*little weight*'
- 7.6.12. It is also identified that the agricultural land in and around the Northampton area is of a relatively high quality, with significant areas of grade 1 and 2 existing to the north of Northampton. In addition, agricultural activities would continue on the land as the phased development proceeds. Whilst acknowledging that no mitigation measures exist for the loss of agricultural land as a result of the Proposed Development, the Applicant contends that the relatively small agricultural losses would not be strategically significantly [APP-117].
- 7.6.13. In respect of soils, approximately 80% of the Proposed Development site would accommodate built development. The remaining 20% is intended for greenspace or would be returned to agricultural use post-development. The remaining soils could, however, become compacted if not protected and well managed during the construction process. They also have limited potential to absorb excess rainfall to mitigate flooding.
- 7.6.14. Although recovery of soil function in landscaped parts of the site would occur over time, the adverse impacts of soil compaction during construction are likely to remain. Given that soil functions would be severely compromised over much of the Main Site, and the damage to and / or loss of soil resources during construction is largely permanent, the situation pre-mitigation represents a major adverse effect.
- 7.6.15. Consequently, the Applicant proposes the adoption of a Soil Management Plan (SMP), which would form part of the CEMP. A soil protection policy, contained within the SMP, would be in place for areas of landscaping and green space, along with a re-use strategy for the topsoil resources. The implementation of such a policy would result in the protection of enough topsoil / subsoil for landscaping uses and the prevention of any subsoil compaction. Excess topsoil and subsoil may be reused in landscaping bunds to minimise the generation of waste. The Applicant contends that the effect on soil resources would be minor adverse with such mitigation measures in place.
- 7.6.16. The effects of the Proposed Development on agricultural and soil resources are highly site-specific, and the consideration of interrelationships between effects on identified receptors are considered by the Applicant to be extremely limited.

Planning Issues

- 7.6.17. Over a quarter of the RR's received stated concern relating to the loss of productive farmland. This included representations from the Parish Councils

of Blisworth [RR-031], Quinton [RR-627], West Hunsbury [RR-633] and Stoke Bruerne [RR-669].

- 7.6.18. SNC in its LIR [REP1-037] acknowledged that the significance of the loss of 33.3 ha of BMV within the context of agricultural land across South Northampton is neutral. However, SNC further stated that the cumulative impact with any further loss of agricultural land in the locality would have a significant local negative impact. No mention of the loss of agricultural land was made by NCC or NBC in their LIRs.

The ExA's Considerations

- 7.6.19. Through both its initial [PD-007], further set of written questions [PD-010] and discussions during ISHs, we sought to query and clarify various aspects of the assessment of the effects on agricultural land resulting from the Proposed Development as set out in Chapter 13 of the ES [APP-117].
- 7.6.20. Further to responses and clarification provided by the Applicant, whilst having regard to the concerns raised regarding the loss of agricultural land, we are satisfied that the assessment undertaken is sufficiently robust to provide meaningful outputs that can be relied upon.
- 7.6.21. It is acknowledged that no mitigation measures exist for the loss of agricultural land and that the most significant impact of the Proposed Development would be on the Courteenhall Estate. Despite this, Courteenhall Estate includes a large amount of land beyond the Proposed Development site and this would continue to be farmed. It has also been confirmed that the loss of the land would not affect the Estate's agricultural business or any environmental stewardship of the land which is to be retained [REP1-020]. Furthermore, during construction agriculture would continue on the land as the phased development proceeds.
- 7.6.22. In relation to the Bypass Corridor, given the small-scale impact on the various land holdings and ownership, confirmation has been received that the viability or profitability of any agricultural business on the Courteenhall Estate is unlikely to be significantly affected [REP1-020].
- 7.6.23. The Proposed Development has the potential to severely compromise soil functions due to the sealing by roads and buildings. However, the protection of the soil functions would be managed through procedures specified in the SMP. These measures would result in protection of enough topsoil / subsoil for landscaping uses and the prevention of any subsoil compaction.
- 7.6.24. Paragraph 5.163 of the NPSNN recognises that it may not be possible to develop SRFIs without using countryside and undeveloped greenfield land. However, as detailed at paragraph 5.176 of the NPSNN, the economic and other benefits of the BMV (i.e. grades 1, 2 and 3a) should be considered.
- 7.6.25. The loss of 12.2 ha grade 2 land and 21.2 ha of sub-grade 3a land would have a moderate adverse effect on the availability of BMV. The fact that BMV is also a finite national resource and has a higher sensitivity than land in Grades 3b, 4 and 5 is noted. As such, the concerns that have been

expressed locally about the possible impacts due to the loss of agricultural land are fully recognised.

- 7.6.26. Nevertheless, in terms of land quality, agricultural land in and around Northampton is generally of a high quality and there are significant areas of grade 1 and 2 land, as confirmed in the Applicants response to ExQ 1.9.4 ([REP1-020] and Appendix 19 of [REP1-021]).
- 7.6.27. The Proposed Development site is of a lower quality than the average for the local area and has a relatively limited proportion of land graded as the highest quality.
- 7.6.28. The provisions of a SMP would be secured through Req 12 in the recommended dDCO by requiring each P-CEMP to incorporate a SMP. Req 13(a) also requires an earthworks strategy to be approved, which includes the management and protection of soils. The inclusion of the two requirements is adequate to ensure no significant adverse effects on soil resources from the Proposed Development.
- 7.6.29. The construction of the committed South Northampton SUE to the north of the M1, and the south of Brackmills SUE will, when combined, result in the loss of approximately 50 ha of BMV. Cumulatively, using the assessment criteria as set out in ES Chapter 8 [APP-117], such a loss would be moderate to major in significance.
- 7.6.30. Despite these potential additional losses, given the relatively high-quality agricultural land around Northampton and the amount of grade 1 and 2 land, the ExA considers that the cumulative losses are not strategically significant.
- 7.6.31. In terms of the RC proposal we consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining, when and if it takes place. Nonetheless, in responding to the Applicant's UCIA [REP5-026], RC contended that there would be no adverse cumulative effects in terms of agricultural land quality from the two projects.

Conclusion on Agricultural Land

- 7.6.32. Taking all relevant documents and policies into account the ExA concludes:
- the loss of 33.3 ha of BMV land and lack of any mitigation measures is acknowledged. Nevertheless, significant areas of grade 1 and 2 agricultural land exist in and around the Northampton area. In addition, in accordance with paragraph 5.176 of the NPSNN the loss of lower category agricultural land is to be given little weight; and
 - as such, the Proposed Development would not lead to significant adverse impacts in terms of agricultural land and would therefore accord with paragraphs 5.168 and 5.176 of the NPSNN and Policy R2 of the WNJCS.

7.7. LIGHTING

Introduction

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- 7.7.1. This section addresses the external lighting effects of the Proposed Development.

Policy Considerations

- 7.7.2. NPSNN at paragraph 4.79 states that;

"national road and rail networks and strategic rail freight interchanges have the potential to affect the health, well-being and quality of life of the population. They can have direct impacts on health because of traffic, noise, vibration, air quality and emissions, light pollution, community severance, dust, odour, polluting water, hazardous waste and pests".

- 7.7.3. Paragraph 4.86 the NPSNN notes that "SRFI's tend to be large scale commercial operations, which are most likely to need continuous working arrangements (24 hours)". However, it is also acknowledged within the same paragraph that "appropriate mitigation measures may be available to limit the impacts of noise and light".

- 7.7.4. NPSNN at paragraph 5.87 identifies that the SoS should;

"be satisfied that all reasonable steps have been taken, and will be taken, to minimise any detrimental impact on amenity from emissions of odour, dust, steam, smoke and artificial light. This includes the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation".

- 7.7.5. In 2017, SNC published the South Northamptonshire Design Guide (Issue 3.4). Chapter 4 of the Design Guide looks at design considerations, with section 4.12 covering external lighting and light pollution. The Design Guide echoes the recommendations in the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light', which sets out best practice for lighting design and the control of obtrusive light. Both documents confirm that impacts can, and should be, controlled by appropriate design.

The Applicant's Case

- 7.7.6. ES Chapter 11 examines external lighting [APP-115] and is supported by a number of Appendices, which include Light Pollution Impact and Mitigation [APP-226] and a Lighting Strategy [APP-228].

- 7.7.7. The approach taken to assessment is summarised at ES paragraph 11.3.1:

"The assessment methodology is qualitative and desk based, looking at the likely effects of the Development during both construction and operation. The baseline conditions are determined by the existing provision of lighting on the Main Site, the Bypass Corridor and in the surrounding area".

- 7.7.8. As lighting effects can be experienced over a considerable distance, the area for assessment included receptors with more distant views as well as the Main Site and Bypass Corridor. For the Main Site, the Study Area was

extended to the villages of Milton Malsor and Blisworth to the west, Courteenhall Road ridge to the south-west and the northern end of the Courteenhall estate to the south and east.

- 7.7.9. For the Bypass Corridor, the study area focused on the western side of Roade and any residential properties within 500m of the proposed Corridor. As the Highway Mitigation Works are not proposed to be lit, no direct lighting effects would be experienced. As such, the Highway Mitigation Works have not been included within the assessment.
- 7.7.10. The assessment of baseline conditions confirmed that the surrounding rural area to the west and south of the Main Site is largely devoid of lighting, apart from the main settlements of Milton Malsor and Blisworth. The Main Site itself is unlit.
- 7.7.11. Junctions 15 and 15A on the M1 are lit, with the main motorway carriageway which runs along the eastern edge of the Main Site being unlit. However, the lighting associated with the slip roads at Junction 15 and the elevated junction dumb-bell is visible from many views.
- 7.7.12. The lighting for the Grange Park logistics park located to the east of Junction 15 is highly visible from several surrounding viewpoints, along with local sky glow. At the same time, the Northampton conurbation is well lit and creates local sky glow which is visible from surrounding viewpoints.
- 7.7.13. Residential receptors on the north- and east-facing perimeters of Milton Malsor and Blisworth therefore see some lighting effects, particularly when looking towards the logistics park and the Northampton conurbation. Patches of sky glow are also evident, which can be sighted from more elevated positions. Properties inside the perimeters of the settlements are screened by the perimeter properties and therefore the effects are not as visible. In addition, the presence of local street lighting dominates and consequently the identified night-time effects are less noticeable.
- 7.7.14. Whilst the Bypass Corridor is unlit, the baseline conditions are similar to those of the Main Site, with residential properties seeing some lighting effects in the direction of Roade.

Construction Lighting

- 7.7.15. Lighting effects during the construction phase would be temporary and subject to change during the construction phases. The only significant effects identified relate to Milton Malsor properties which have a full or partial view of the Main Site and properties on Collingtree Road and Barn Lane which are located close to the Main Site boundary. The construction lighting effects are 'moderate adverse', until the earthworks mounding (the bunding) is formed.
- 7.7.16. Creation of the bunding along the western edge of the site would commence early in the construction process. As the construction process moves from east to west the bunding would be increased in both height and length.

- 7.7.17. The Applicant confirmed in its response to ExQ 2.12.2 [PD-010] that the Main Site phasing plan envisages that bunding would be completed within two years following the commencement of construction.

Operational Lighting

- 7.7.18. In order to provide a safe and secure working environment on the Main Site, lighting would be required in all external working areas. Operational lighting on the Main Site would comply with the design principles as set out in the Lighting Strategy [APP-228] and the bunding and planting depicted on the Parameters Plan [REP5-020]. The overarching aims of the Lighting Strategy are to:
- minimise light spill to surrounding areas;
 - minimise upward sky pollution; and
 - ensure appropriate illumination levels.
- 7.7.19. The proposed planting and bunding is included in order to assist in limiting any potential off-site lighting effects. Light spill on the ground of the Main Site would reduce to negligible levels within a few tens of metres from the perimeter. No significant effects from lighting on the Main Site on receptors are predicted.
- 7.7.20. The Bypass Corridor would be lit at each of the three roundabouts which would connect it to the existing road network. The lighting would extend back from each of the roundabouts by approximately 100m and would comply with existing industry standards for lighting in rural areas. The rest of the Bypass would be unlit.
- 7.7.21. The assessment identified that nineteen properties near the three roundabouts are likely to experience moderate adverse effects of light presence (light sources appearing in dark views). Except for Hyde Farm, the effect of light presence would disappear once the planting reaches maturity.
- 7.7.22. No other pronounced or more invasive light effects would occur, such as glare or light spill. This is because the direction of lighting would point downwards to the road surface, rather than directly towards properties. Due to lower mounting heights and lighting outputs, minimal light spill on the Bypass Corridor would be experienced. Due to landscaping and planting, all ground level light spill would be completely screened from the nearest residential receptors.
- 7.7.23. In relation to ecological matters, any unmitigated lighting of bat roosts and inter-connecting habitat types, such as hedgerows, trees or woodland edge, may indirectly impact upon the species that are dependent on them. Without appropriate mitigation, such an impact would be of minor significance.
- 7.7.24. The operational development at the Main Site would lead to an increase in disturbance to birds due to the physical proximity of buildings and alterations in levels of noise and light. Without mitigation such effects are likely to result in the displacement of barn owl, buzzard and kestrel from the retained

habitat of the Main Site. Without appropriate mitigation, the impact is of minor significance to each of these species.

Mitigation

- 7.7.25. Construction lighting would be managed as part of the CEMP, via the provision of a lighting-related P-CEMP, secured by Req 12 of the dDCO. Regarding bunding, Req 13 of the dDCO requires all earthworks to be carried out in accordance with the details as approved by the relevant LPA. The creation of the bunding would commence early during the construction period. Accordingly, the bunding would provide direct mitigation for construction lighting effects. After the implementation of such mitigation measures, any lighting effects would be fully mitigated.
- 7.7.26. In regard to operational lighting, once the design measures included in the Lighting Strategy [APP-228] and the earthworks and planting measures are implemented, residual effects from the Main Site are considered negligible. The Lighting Strategy would be secured via Req 15 of the dDCO which requires lighting details to be approved by the relevant LPA and that lighting must accord with the principles set out in the strategy.
- 7.7.27. As a result of the comprehensive Lighting Strategy and the earthworks, the Applicant does not consider further mitigation for the Main Site is necessary.
- 7.7.28. In terms of the Bypass Corridor, except for Hyde Farm, the pre-mitigation moderate adverse lighting effects would be largely mitigated once the planting reaches maturity. The provision of additional mitigation through the utilisation of baffles / shields for the Bypass Corridor has also been suggested by the Applicant.
- 7.7.29. Despite this, no mitigation by baffles / shields was considered in the assessment. If such equipment was to be utilised, the design would need to accord with BS5489-1:2013 'Code of practice for the design of road lighting, Part 1: Lighting of roads and public amenity areas' as implemented by Northamptonshire Highways. Compliance with this standard would ensure the lighting effects would be as already assessed and stated in Table A11.4.2 of Appendix 11.4 [APP-229].
- 7.7.30. In terms of ecology, the adoption of a sensitive lighting scheme, which would include the shielding of sensitive habitats from light-spill, is considered sufficient to reduce the residual impact of lighting from the Proposed Development upon all bats to 'negligible'.
- 7.7.31. As detailed at paragraph A11.3.11 of the Lighting Strategy [APP-228], all lighting sited close to ecologically sensitive areas would be designed to minimise light spill. Ecological advice would also be sought to confirm any constraints to be applied.

Planning Issues

- 7.7.32. In its LIR [REP1-037], SNC notes that, subject to the inclusion of appropriate measures in the CEMP, the impact of external lighting during the construction phases would not be significant.
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- 7.7.33. Within SNC's WR [REP1-039], it is noted that residual lighting glow effects due to the 24-hour operational needs of the Proposed Development would extend into the relatively undeveloped landscape west of the M1. This would reduce the extent of local dark skies. Nevertheless, on the assumption that the proposed external lighting strategy is implemented, SNC considered that such an impact would be minimised, and significant adverse effects avoided at the Main Site.
- 7.7.34. In relation to the Bypass Corridor, the street lighting around the bypass roundabouts would be visible to adjacent properties. Whilst the possible use of lowered lamp mounting heights and baffles is noted, SNC states that properties near to the roundabout would experience negative adverse impacts. However, SNC acknowledges its role in approving the permanent external lighting strategy for the Proposed Development and that this would provide an opportunity to ensure lighting effects relating to the Bypass Corridor are minimised.
- 7.7.35. NBC, in its LIR [REP1-089] and WR [REP1-088] notes that, subject to the inclusion of appropriate mitigation measures as part of the CEMP, external lighting should not be significant to NBC residents during construction.
- 7.7.36. In terms of the operational phase, NBC concludes that it has no detailed comments as specific details of lighting would require agreement of the relevant LPAs to ensure appropriate mitigation is in place.
- 7.7.37. A significant number of RRs from local residents and Parish Councils, including [RR-031], [RR-043] and [RR-669], were received, expressing generalised concern regarding light pollution.
- 7.7.38. RC, in its commentary on the Applicant's UCIA [REP5-026] and [REP5-027] disagrees with the findings regarding cumulative external lighting. RC states that:
- the matrices used for determining impact magnitude and receptor sensitivity do not follow standard guidance;
 - the Applicant has not taken account of the mitigation proposed in the RC assessment; and
 - the Applicant has not correctly addressed the three elements of light pollution, light trespass / encroachment, glare and sky glow, focussing instead only on sky glow.
- 7.7.39. Oral submissions were also made on behalf of RC at ISH4 in response to questions from the ExA regarding the Applicant's assertion that the two developments together would give rise to a major adverse effect [REP6-018].
- 7.7.40. During the OFH2, Councillor Adam Brown of NCC made reference to the resolution by the NCC Cabinet on 12 March 2019 [REP6-035] to formally object to the Proposed Development as Council Members have indicated their particular concern that, amongst other matters, local villages would be seriously affected by air, noise and light pollution.

The ExA's Considerations

- 7.7.41. Through both its initial [PD-007], further set of written questions [PD-010] and discussions during ISHs, the ExA sought to query and clarify various aspects of the assessment of the effects of external lighting from the Proposed Development as set out in Chapter 11 of the ES [APP-115].
- 7.7.42. We acknowledge the concerns and criticisms raised by RC in relation to the lighting assessment approach adopted in ES Chapter 11 [APP-115] and also within the UCIA [AS-040]. However, as a result of answers and clarification provided, we are satisfied that both assessments are sufficiently robust to provide meaningful outputs that can be relied upon.
- 7.7.43. The approaches and methodologies adopted would seek to avoid or minimise any unnecessary effects upon the landscape and surrounding visual and residential receptors. In particular, the Lighting Strategy [APP-228] would incorporate the latest energy efficient directional luminaires that would prevent sky glow, glare and light spillage. The detailed lighting scheme would be designed to satisfy the Lighting Strategy, to minimise upward light pollution and to comply with the Institute of Lighting Professional best practice.
- 7.7.44. Any night-time visual effects of the Proposed Development would be minimised through the adoption of the Lighting Strategy. The presence of existing light sources, such as the surrounding major roads, nearby employment centres and settlement areas within the wider context of the application site, would also assist in moderating night-time visual effects.
- 7.7.45. The residual effects on Hyde Farm are noted. However, the remaining light presence would be a visual effect and not a nuisance or amenity effect, such as glare or light spill, as light would be directed downwards to the road surface and would not directly shine towards the properties. Rather, lighting would shine towards the road surfaces. Residents at Hyde Farm would not therefore experience excessive lighting on windows or the loss of amenity within garden areas.
- 7.7.46. Regarding cumulative considerations, approved developments within the vicinity of the Proposed Development include the Northampton SUE and South of Brackmills SUE. The cumulative effect of the Proposed Development in conjunction with the Northampton SUE are expected to be similar to that which has already been assessed. Given the distance of the South of Brackmills SUE from the Proposed Development, no direct cumulative effects are anticipated. There would, however, be a minimal impact on the local sky glow effects of urban development.
- 7.7.47. Due to the lack of shared receptors and distance from the Proposed Development, when assessed with both committed developments, the cumulative effects are expected to be very similar to those assessed for the Proposed Development.

- 7.7.48. Regarding cumulative effects with RC, we consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining, when and if it takes place. Nonetheless, in responding to the Applicant's UCIA [REP5-026], RC indicates its belief that the UCIA undertaken by the Applicant is flawed as it utilises an inappropriate cumulative methodology. Nonetheless, in summary, RC is of the opinion that there would be limited potential for a significant cumulative impact to arise.

Conclusion on Lighting

- 7.7.49. Taking all relevant documents and policies into account, the ExA concludes:

- the Proposed Development would not lead to significant adverse impacts in terms of external lighting once suitably and appropriately mitigated; and
- the Proposed Development would therefore accord with paragraphs 4.79 and 5.87 of the NPSNN and section 4.12 of the South Northamptonshire Design Guide Policy.

7.8. WASTE MANAGEMENT

Introduction

- 7.8.1. This section addresses the effects of the Proposed Development on waste management.

Policy Considerations

- 7.8.2. Waste considerations are set out in NPSNN paragraphs 5.39 - 5.45. In line with the Waste (England and Wales) Regulations 2011, developments are expected to ensure sustainable waste management is implemented through the waste hierarchy as follows:

- prevention;
- preparing for reuse;
- recycling;
- other recovery, including energy recovery; and
- disposal, only as a last resort.

- 7.8.3. Applicants are required to set out the arrangements that are proposed for managing any waste produced. Furthermore, the Applicant should seek to minimise the volume of waste produced and the volume of waste sent for disposal unless it can be demonstrated that the alternative is the best overall environmental outcome.

- 7.8.4. The Applicant should also propose an effective system for managing hazardous and non-hazardous waste arising from the construction, operation and any decommissioning of the Proposed Development.

- 7.8.5. Other national documents are also of relevance for ensuring the effective application of the waste hierarchy. Such documentation includes the Waste

Strategy for England (DETR 2007) and the Waste Management Plan for England (DETR 2013).

- 7.8.6. At a local level, local waste statistics data are not available and therefore county-wide waste statistics are utilised. In addition, the Northamptonshire Joint Municipal Waste Management Strategy (2012) (NJMWMS) is of relevance. This document outlines a commitment to increase recycling rates across the county whilst ensuring the waste hierarchy is utilised when considering the best options for managing Local Authority Collected Municipal Waste.

The Applicant's Case

- 7.8.7. ES Chapter 14 [APP-122] considers waste management and is supported by technical appendices [APP-301] and [APP-302]. The chapter presents the results of the assessment of the potential environmental effects related to construction and operational waste arisings in terms of the likely quantities of waste arising, the proposed management of the operational, construction, demolition and excavation waste, and the regional capacity to treat or dispose of residual waste.
- 7.8.8. The assessment includes the consideration of impacts associated with construction and demolition phases, as well as waste that would be generated during the operational phase. Proposed measures to be taken during the development design process to maximise the opportunities for the re-use of construction materials are also illustrated.
- 7.8.9. The Proposed Development is located approximately 4.8 km south of Northampton town centre. The Applicant therefore contends that waste management / disposal facilities close to the centre would be used. It is noted that the current agricultural land does not result in any waste arisings.
- 7.8.10. The regional landfill and waste management capacity for the Northamptonshire area is based on the Northampton Minerals and Waste Monitoring Report (2016). As of 2014/15, 1.78 million tonnes per annum (Mtpa) landfill / disposal capacity and 5.5Mtpa of waste management capacity existed. Whilst most waste types would be able to be disposed of locally, a shortage of non-inert capacity has been identified. It is confirmed that there may be a requirement to transport non-inert materials off site to a landfill capacity with adequate capacity.

Construction, Demolition and Excavation Waste (CD&E)

- 7.8.11. CD&E activities arising from the Proposed Development have the potential to increase the level of burden on the existing local landfill sites. This potential impact has been considered as part of the assessment.
- 7.8.12. It is, however, anticipated by the Applicant that a large percentage of CD&E waste would be reused or recycled, thereby reducing levels to be sent to landfill. A figure of 89% re-use and recycling rate has been utilised within the assessment.

- 7.8.13. Waste environmental impacts have been assessed for the construction phasing from 2020, with the target date for completion in 2026. Baseline conditions, taken from the most up-to-date data available in the Northamptonshire Minerals and Waste Monitoring Report (2016), forecast an amount of 1.35 Million tonnes (Mt) for CD&E waste arisings during 2014/2015.
- 7.8.14. Any excavated materials resulting from the Bypass Corridor or Highways Mitigation Works would be incorporated into areas requiring additional material for levelling purposes. There would not be any waste arisings from on-site excavation, as the waste would be either re-used on site or exported off-site for re-use.
- 7.8.15. Demolition waste (see Table 2 below) has been calculated using the volumes of the existing agricultural buildings located in the eastern-central area and adjacent to the existing woodland. These would be demolished to accommodate the Proposed Development.

Table 5 Estimated Construction, Demolition and Excavation Waste Arisings (ES Chapter 14 Table 14.3 [APP-122])

Type	Building Gross Internal Area (m ²) or Waste Amount (m ³)	Conversion Factor	Waste (Tonnes)	Waste after 89% Reuse / Recycling (Tonnes)
Construction of Warehouses, and Mezzanine	598,889.00m ²	12.6 tonnes per 100m ² (ref 14.2)	81,275.00	8,940.00
Construction of Ancillary Offices	24,435.00m ²	23.8 tonnes per m ² (ref 14.2)		
Construction and Excavation of Bypass and Highways Improvement	0	0	0	0
Demolition Waste	3,320.00m ³	0.42 tonnes per m ³ for Metal (ref 14.17)	1,395.00	153.00

Excavation Waste Arising from SRFI Construction	0	0	0	0
Total CD&E Waste	-	-	82,670.00	9,093.00

7.8.49. If 89% of the CD&E waste arisings are reused / recycled, the total amount of waste would be reduced to approximately 9,093 tonnes. This figure equates to 0.7% of the baseline figure of 1.35Mt as detailed above. It is acknowledged that approximately 11% of the CD&E waste would need to be sent to landfill. However, local and regional landfill capacity has been identified as being adequate.

7.8.50. To further minimise impacts of CD&E waste, site contractors would implement a Site Waste Management Plan (SWMP), with a Framework SWMP being submitted as part of the application [APP-302]. The SWMP would be prepared by the Principal Contractor and completed prior to construction of the Proposed Development. This would ensure that waste on site is managed in a compliant and sustainable manner. The SWMP would also specify the accountable party to which any specified measures apply.

7.8.51. In addition, the relevant P-CEMP, as secured by Req 12 of the dDCO, would set out details of construction waste management in accordance with the Framework SWMP. Paragraph 5.9 of the CEMP [REP6-003] also states that all construction staff are to be trained in the appropriate use of materials on-site through inductions and 'tool box' talks at regular intervals.

7.8.52. Prior to mitigation measures, the assessment concluded the impact of the CD&E waste arisings to be negligible. Taking into consideration the presence of mitigation measures, the residual effects remain negligible and would not result in any significant adverse environmental impacts.

Operational Waste

7.8.53. Operational waste impacts are based on the whole development being operational from 2026. Operational waste would consist of commercial waste, waste generated from the employees based on site and process-based activities which would include the import, storage and export of goods. As with the CD&E waste, operational waste has the potential to impact on the capacity of local waste management facilities.

Table 6 Estimated Operational Commercial Arisings Per Annum (ES Chapter 14 Table 14.4 [APP-122])

Waste	Waste (Tonnes per Annum)
Employment Generated Waste	19,369
Warehouse and Rail Freight	155,688.00
Total Commercial Arisings	175,057.00
Total Arisings assuming a 52% recycling rate	84,027.00

- 7.8.64. Calculations in relation to operational waste are based on a 52% recycling rate. As shown in Table 3, if the recycling figure was achieved, at 84,027 tonnes per annum, the volume of commercial waste would equate to approximately 8.9% of the baseline. Baseline conditions illustrate that local and regional landfill capacity is adequate and therefore predicted operational waste could be accommodated. However, as with CD&E waste, there would also be a requirement for some of the operational waste to be sent to landfill.
- 7.8.65. Operational waste is to be controlled and monitored through operators and contractors, with the most appropriate waste management options for the given waste stream being adopted. This would be secured via Req 27 of the dDCO, which requires a waste management scheme for each component on the Main Site.
- 7.8.66. Considering the mitigation, the ES concludes that for both construction and operational stages the residual impact on waste management would be negligible.

Decommissioning Waste

- 7.8.67. The Proposed Development is designed to be permanent and the Applicant has not therefore assessed the potential waste volume in relation to decommissioning. If the Proposed Development is to be decommissioned in the future, this would be the subject of a new planning application which would require the development of a new waste strategy.

Planning Issues

- 7.8.68. The issue of waste management was not raised as a specific concern in RRs, WRs or LIRs.
- 7.8.69. In our first round of written questions [PD-007] we requested confirmation as to whether Table 14.2 in Chapter 14 had been agreed with the Environment Agency (EA) and whether a SoCG was to be submitted.

- 7.8.70. The EA, in its WR [REP1-116], confirmed its regulatory powers regarding waste and that a SoCG had been reached. However, in the agreed SoCG [REP1-015], the EA confirmed that waste matters were to be deferred to the relevant local authority. This position was also confirmed within the Applicant's response to the first round of written questions [REP1-020].

The ExA's Considerations

- 7.8.71. Through both its initial [PD-007], further set of written questions [PD-010] and discussions during ISHs, the ExA sought to query and clarify various aspects of the assessment of the effects of additional levels of waste resulting from the Proposed Development as set out in Chapter 14 of the ES [APP-122].

- 7.8.72. We sought clarification from the Applicant regarding the relevance of the decision in *R v Cornwall County Council ex parte Hardy (2001) Env LR 473* in relation to paragraph 14.4.13 of the ES. This states;

"A detailed review of the local waste facilities will be completed by the site contractor during the construction phase, and the site operator during the operational phase prior to waste disposal. This would establish the most appropriate waste management options for the given waste stream".

- 7.8.73. Paragraph 14.4.13 appeared to indicate that a "*detailed review of the local waste facilities*" would only be undertaken following the grant of the DCO. Our concern focused on whether this approach would result in the failure of a material significant environmental effect being considered in the determination of the DCO. Thus, the ExA queried whether, as in *ex parte Hardy*, the decision to grant the DCO would be made in ignorance of whether there was likely to be a significant adverse effect.

- 7.8.74. As a result of answers and clarification provided to the initial and further round of written questions, whilst having regard to the likely levels of waste arisings and available local and regional landfill capacity, we are satisfied that the assessment undertaken is sufficiently robust to provide meaningful outputs that can be relied upon.

- 7.8.75. From the assessment findings, we are therefore satisfied that sufficient landfill capacity is available for the arisings likely to be generated by the Proposed Development and no impacts would be significant in EIA terms.

- 7.8.76. Accordingly, and further to the responses provided by the Applicant [REP1-019], [REP5-023] and [REP6-012], in relation to the matter of *ex parte Hardy*, we are also satisfied that it is appropriate for the identification of this aspect of the waste mitigation strategy to be deferred.

- 7.8.77. The proposed measures for the management of waste for the construction, demolition and excavation phases are set out in the Framework SWMP. The SWMP would be delivered as a management plan through the CEMP, which itself would be secured through Req 12 in the dDCO. Through the P-CEMPs the relevant local authorities and EA would be actively involved as consultees in plans for the management of waste, taking account of available facilities.

In addition, operational waste management measures would be secured through Req 27 in the dDCO.

- 7.8.78. We are therefore content that hazardous and non-hazardous waste arising from the construction and operation of the Proposed Development would be able to be properly managed and that all necessary controls would be in place through the recommended dDCO.
- 7.8.79. It is acknowledged that the construction of the committed Northampton SUE to the north of the M1 and the South of Brackmills SUE would, when combined, result in a minor cumulative waste management effect during the construction phase. During operation, the cumulative waste management effects are anticipated to be of minor significance.
- 7.8.80. In terms of the RC proposal we consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining, when and if it takes place. Nonetheless, in responding to the Applicant's UCIA [REP5-026], RC notes that whilst the magnitude of effect would be increased on regional waste capacity, it believed that there would be no adverse cumulative effects in terms of waste and resource management from the two projects.

Conclusion on Waste Management

- 7.8.81. The ExA is satisfied that the ES has adequately assessed the potential impacts of waste arisings during the construction, demolition and excavation and operational phases of the Proposed Development.
- 7.8.82. Taking all relevant documents and policies into account, the ExA concludes:
- the waste management effects of the Proposed Development are acceptable;
 - the Proposed Development would accord with the general provisions detailed in the Waste Strategy for England 2007 and the Waste Management Plan for England 2013; and
 - the Proposed Development would therefore accord with paragraphs 5.39 – 5.45 of the NPSNN and the overarching aims of the NJMWMS.

7.9. WATER ENVIRONMENT

Introduction

- 7.9.1. This section of the Report addresses two aspects of the water environment:
- flood risk; and
 - water quality and resources.

Policy Considerations

- 7.9.2. NPSNN provides policy relevant to decision-making about flood risk and related drainage considerations in paragraphs 5.98 to 5.109. Policy relating to mitigation is set out in paragraphs 5.110 to 5.115. These include promotion of measures including Sustainable Drainage Systems (SuDS),

suggesting amongst other techniques the use of basins and ponds to hold excess water after rain to enable controlled discharge. Paragraph 5.113 states:

"The surface water drainage arrangements for any project should be such that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to the proposed project, unless specific off-site arrangements are made and result in the same net effect."

7.9.3. Policy relevant to water quality and resources is provided in NPSNN paragraphs 5.224 to 5.227. Paragraph 5.226 states that the SoS should be satisfied that a proposal has had regard to River Basin Management Plans and the requirements of the Water Framework Directive (WFD). Policy relating to mitigation is set out in paragraphs 5.228 to 5.231. The NPSNN highlights that activities which give rise to discharges to the water environment during both construction and operation are subject to pollution control and so are subject to general policy considerations in paragraphs 4.48 to 4.56.

7.9.4. WNJCS Policies BN7, BN7A and S10 broadly echo policy within the NPSNN in relation to flooding, water supply, quality and wastewater infrastructure, the promotion of sustainable drainage and adaptability to changing climate.

The Applicant's Case

7.9.5. ES Chapter 7 examines water resources and drainage [APP-093]. ES Appendix 7.1 contains a Part 1 and Part 2 Flood Risk Assessment (FRA) [APP-182, APP-183]. ES Appendix 7.2 is a WFD Compliance Assessment [APP-184]. The WFD Compliance Assessment was amended to take account of comments from the Environment Agency (EA), a copy of which was appended to the SoCG with the EA [REP1-015]. Appendix 7.3 contains a Sustainable Drainage Assessment [APP-185].

7.9.6. The Main Site and the Roade Bypass Corridor generally comprise arable and grazing land which is greenfield in nature and essentially subject to a natural regime of pluvial runoff into localised watercourses, with limited infiltration via land drainage features.

7.9.7. The remainder of the proposals, which are highway mitigation works, amount to localised amendments to the existing highway infrastructure with their own positive drainage features to collect run-off.

7.9.8. Except for a small area at the Pury Road / A508 junction, the Proposed Development lies within Flood Zone 1, as land having a less than 1 in 1,000-year probability of river flooding. Fluvial flood risk is therefore considered to be low. Given the location of the Main Site within Flood Zone 1 the provision of a flood evacuation plan would be superfluous, such plans typically being provided for development within Flood Zones 2 and 3 [REP4-011].

7.9.9. Modelling of the minor watercourse which flows through the southern portion of the Main Site, and which for assessment purposes has been referred to as the Courteenhall Brook, was undertaken to understand any flooding issues

associated with this watercourse. This indicated that a 1 in 100 year plus 65% climate change storm could put the lower parts of the Main Site adjacent to the M1 / A508 roundabout at risk of flooding, in part as a result of an undersized culvert from the site under the A508 [APP-093].

7.9.10. The Bypass Corridor would cross an un-named ordinary watercourse which would require culverting to maintain its route. Modelling shows that all flows would remain within the confines of its embankment up to the 1 in 1,000-year return period. The route of the bypass is therefore considered to be at a low risk of flooding. The Pury Road / A508 junction encroaches into Flood Zones 2 and 3. As the highway is already raised above the floodplain, the proposed highway mitigation amendments would have no impact or encroachment into the floodplain [APP-093].

7.9.11. The Proposed Development is not located within a Groundwater Source Protection Zone and no groundwater abstraction licences have been identified within 1km. Foul water flows from the Proposed Development would require the upgrading of the existing sewerage system to convey flows to the nearest treatment works, which have capacity to treat them.

Mitigation

7.9.12. The CEMP [REP6-003] is the overarching document to control impacts during construction and from which phase-specific P-CEMPs would be produced. The CEMP, which would be a certified document, contains measures to secure routeing and storage of plant to prevent soil compaction and increased rates and volumes of run-off. Bespoke proposals for temporary surface water management systems to be put in place to prevent localised flooding would be formulated within each P-CEMP. The CEMP also sets out measures that would safeguard water resources from the potential spillage of pollutants and contamination during construction. The provision of P-CEMPs to accord with the principles of the CEMP is secured by Req 12 of the dDCO. With mitigation implemented, residual impacts are assessed as of negligible significance.

7.9.13. For the operational phase of the Proposed Development an appropriate drainage strategy has been identified which includes SuDS. This is based on the creation of a network of new dry detention basins or permanently wet ponds. These would attenuate surface water flows from the Main Site to the equivalent greenfield runoff rate, with attenuation volumes to provide for a 1 in 200-year event plus 20% climate change allowance. Attenuation basins are proposed for the Roade Bypass with volumes designed to cater for a 1 in 100-year event plus 20% climate change allowance.

7.9.14. By restricting the volumes of flow from the Main Site leading to the culvert under the M1 and to the Wootton Brook, the development would help to reduce the likelihood and severity of flooding downstream. This would similarly be the case for the bypass route which ultimately drains to the River Tove. Overall, the scheme would provide a betterment in terms of water quantity control and there would no increased risk of fluvial flooding on land beyond the Proposed Development. With mitigation, any residual effects are assessed as being moderate, beneficial. Req 18 of the dDCO ensures that

any drainage scheme for the Main Site should accord with the Sustainable Drainage Statement, informed by additional infiltration testing, and be approved by the Lead Local Flood Authority [APP-093, section 7.6].

- 7.9.15. Req 19 of the dDCO necessitates the submission and subsequent agreement of a floodplain compensation scheme for any element of the Proposed Development affecting any floodplain. Any scheme must accord with the principles established in the flood compensation measures set out in the FRA.
- 7.9.16. The WFD Compliance Assessment [REP1-015] studied risk to designated water bodies and proposes suitable mitigation measures to be incorporated into the wider water environment and to prevent the deterioration in water body status. Req 17 of the dDCO requires development to be carried out in accordance with this and with the FRA. With mitigation, the impact of development in respect of potential contamination of water resources is assessed as negligible.
- 7.9.17. A solution to pump foul water from the site has been proposed by Anglian Water that would require a length of sewer to be increased in order to mitigate the risk of flooding. The impact on the existing foul sewerage network is assessed as negligible. Req 20 of the dDCO necessitates a foul water strategy to be agreed with the relevant planning authority and be subsequently implemented.
- 7.9.18. Having regards to cumulative effects, the ES notes at paragraph 7.8.1:
- "There are currently no existing or permitted schemes which are relevant to or would represent a cumulative impact with the Proposed Development regarding water resources and flood-risk. Other committed developments nearby (such as the Northampton South, and South of Brackmills Sustainable Urban Extensions) will be subject to similar requirements of national planning policy and best practice to limit surface water runoff, and to managing water effectively and in a sustainable way within the site, including with regards climate change.*
- Therefore, no cumulative effects exist with the relevant committed developments identified for consideration by this ES".*
- 7.9.19. In answer to ExQ 1.12.8, details of the mitigation proposed for the Northampton South SUE have been provided which indicate that this scheme contains a range of standard and best practice measures. These are geared to that site and considerable betterment would be provided over and above the existing hydrological conditions [REP1-020].
- 7.9.20. The ES also assessed cumulative effects with the RC proposal noting that the two sites for the SRFI from a flood risk and drainage perspective are distinct from each other; they are almost entirely located in separate topographical, and therefore hydrological, catchments (due mainly to the Northampton Loop railway line which separates them). The proposals for Northampton Gateway would be that no surface water discharges westwards, so there would be no potential impact from the development of both sites. No runoff from the RC site is proposed to flow towards the Northampton Gateway site.

- 7.9.21. The UCIA takes account of the ES submitted by RC in its now accepted application [AS-040]. This considers there to be some lack of clarity in the RC application with regards potential betterment as a result of incorporating sustainable drainage methods. Nevertheless, the UCIA suggests that in terms of cumulative effects there would be at least a minor beneficial impact across the wider drainage catchment areas within which the sites sit.

Planning Issues

- 7.9.22. The SoCG with the EA [REP1-015] notes that the details within the FRA demonstrate that within the Courteenhall Brook and further downstream within the Wootton Brook there would be a reduction in fluvial flood risk as a result of the Proposed Development. The SoCG notes that foul water drainage is a matter to be addressed by Anglian Water (which is the appointed water and sewerage undertaker for the Proposed Development). However, it has been demonstrated that a suitable mitigation scheme to avoid off-site detriment has been agreed and that there is sufficient capacity available at the water recycling centre to accommodate flows from the development.
- 7.9.23. The WFD Compliance Assessment has been amended to take account of the EA's comments. The EA also agrees that the wording of Art 21 of the dDCO relating to the control of discharge of water is acceptable, as does Anglian Water [REP7-019, SoCG].
- 7.9.24. A SoCG with NCC, as Lead Local Flood Authority, records that the FRA and Drainage Strategy have been prepared in accordance with the NPSNN and confirms the restriction of surface runoff rates referred to above [APP-383]. The NCC LIR [REP1-036] confirms that all potential impacts of the Proposed Development on local flood risk and surface water drainage can be mitigated through appropriate design, the principles of which are set out in the FRA.
- 7.9.25. At ISH2 the Applicant responded to concerns of SRNG [REP1-054] that surface water could flow off the Main Site (in excess of agreed limits) and cause problems if the proposed 'Hydrobrakes' with overflow systems were to fail or become blocked. The Applicant noted that the use of these devices is widespread because they operate effectively [REP4-011]. Furthermore, attenuation is to be designed to cope with a 1 in 200-year event plus climate change allowance.
- 7.9.26. The SoCG with Anglian Water [AS-016] indicates that a scheme for foul water disposal is acceptable based on hydraulic modelling. Work to upgrade the existing sewer network would be undertaken by Anglian Water when required. Anglian Water also confirms that in principle it is able to provide the Applicant's requested flow of clean water. This is subject to appropriate reinforcement works, and it is content with the protective provisions included within Part 5 of Schedule 13 of the dDCO.
- 7.9.27. A SoCG with Highways England records that proposed drainage from the Main Site includes connections to two existing watercourses which pass beneath the M1 [AS-050]. This follows HE's initial belief that the drainage from the Main Site would be into the highway drainage system [REP1-115].

The Applicant confirmed at D2 [REP2-010] that this was not the case. With confirmation that flows would not increase to this watercourse HE is satisfied as to the risk of additional flows to its network. The principle of the Main Site discharge strategy insofar as it may impact on the strategic road network is therefore agreed with HE.

- 7.9.28. RC, in its commentary on the Applicant's UCIA, is in agreement that in terms of hydrology, drainage and flood risk there would be no significant adverse cumulative effects from the two projects [REP5-026].

The ExA's Considerations

- 7.9.29. The Applicant has provided sufficient evidence to demonstrate that with suitable mitigation there would be no significant adverse impacts in terms of flood risk, water quality and resources. The recommended dDCO through Art 21, and Reqs 12, 17, 18, 19 and 20 agreed with the Lead Local Flood Authority, the EA, relevant water company or the relevant planning authority as appropriate, secure the necessary controls to ensure adequate mitigation and protection both during construction and operational phases. Adequate regard has been paid to the effects of climate change. The Proposed Development would be policy-compliant in these regards, and this would be the case in respect of the WFD.
- 7.9.30. Overall, in terms of mitigation of flood risk within the wider locality, the Proposed Development could be beneficial by reason of the introduction of sustainable drainage methods and the restriction of surface water flow.
- 7.9.31. In terms of the RC proposal we consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining, when and if it takes place. Nonetheless, in responding to the Applicant's UCIA, RC indicates its belief that there would be no adverse cumulative effects on the water environment from the two projects.

Conclusion on the Water Environment

- 7.9.32. Taking all relevant documents and policies into account, the ExA concludes:
- the Proposed Development is NPSNN policy-compliant in relation to flood risk;
 - discharges to the wider catchments would meet the WFD and are therefore policy-compliant; and
 - the introduction of SuDS for both the Main Site and for the Roade Bypass Corridor is similarly policy-compliant and would mean that the water environment effects of the Proposed Development would be positive overall.

7.10. GEOLOGY, SOILS AND GROUNDWATER

Introduction

- 7.10.1. This section addresses the geology, soils and groundwater effects of the Proposed Development.

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Policy Considerations

7.10.2. NPSNN provides policy relevant to decision-making about land stability, water quality and dust in Section 5. Paragraph 5.116 states *"The effects of land instability may result in landslides, subsidence or ground heave. Failing to deal with this issue could cause harm to human health, local property and associated infrastructure, and the wider environment."*

7.10.3. Paragraph 5.119 examines mitigation options and states that;

"Applicants have a range of mechanisms available to mitigate and minimise risks of land instability. These include;

- *establishing the principle and layout of new development, for example avoiding mine entries and other hazards*
- *ensuring proper design of structures to cope with any movement expected, and other hazards such as mine and / or ground gases*
- *requiring ground improvement techniques, usually involving the removal of poor material and its replacement with suitable inert and stable material. For development on land previously affected by mining activity, this may mean prior extraction of any mineral resource".*

7.10.4. No relevant local plan policies were identified specific to this topic area.

The Applicant's Case

7.10.5. ES Chapter 6 examines geology, soils and groundwater [APP-092] and is supported by a number of technical appendices, which include a baseline contamination site impacts and effects matrix [APP-169] and a preliminary ground investigation interpretative report [APP-178].

7.10.6. The approach taken to assessment is summarised at ES paragraph 6.3.4;

"There is no standard procedure for assessing the impact of the effect of potential unstable ground on a development project and the wider area'. A 'weight of evidence' approach is used to determine whether unstable ground is likely to be a hazard and hence whether any mitigation or special construction measures may be needed."

7.10.7. The Proposed Development site is located within a formerly glaciated area, signified by rolling hills created by glacial erosion and the subsequent deposition of glacial deposits. Except for the farm buildings on and near to the Main Site and Bypass Corridor, most of the Proposed Development site remains in agricultural use. The Main Site is located partially across a large Minerals Safeguarding Area. It is not, however, located within a permitted or allocated development site.

7.10.8. Mineral Site MA2 is located between the villages of Milton Malsor and Collingtree, immediately to the north of the Proposed Development. Site MA2 is anticipated to yield approximately 1.2 million tonnes of sand and gravel. Access to this site for the removal of aggregate by road is not possible through the two villages. Any exploitation of the mineral at this site

would be dependent on the provision of new infrastructure. Accordingly, whilst site MA2 is permitted, the site is not currently being exploited.

- 7.10.9. Following a review of the NCC Minerals and Waste Local Plan Submission Document: Local Aggregates Assessment (2013), it has been identified that NCC has enough permitted and allocated site reserves to provide sand and gravel supplies for the next 20 years. This is 13 years more than set out in national guidance and the allocations would provide 2.1 million tonnes beyond that which is required to be identified.
- 7.10.10. Consultation with NCC was undertaken in relation to the impact of the Proposed Development on sand and gravel resources. Confirmation was received that mineral resources beneath the Main Site are not accessible. As deposits are likely to be varied and mixed in nature, the Proposed Development site is not considered to be economically suitable for commercial extraction. Consultation also confirmed no county or regional shortage of sand or gravel resource exists. No minerals issues associated with the Bypass Corridor were identified.
- 7.10.11. No significant Made Ground was identified across either the Main Site or the Bypass Corridor. In addition, following the testing of soil and groundwater samples, no materials of concern or significant contamination were evident.
- 7.10.12. Both the Main Site and Bypass Corridor are underlain by a mantle of Oadby Member and this is underlain at depth by granular Glaciofluvial Deposits, whereas the Bypass Corridor is underlain by Blisworth Limestone Member.
- 7.10.13. In relation to hydrological features on the Main Site, one surface water feature is evident. This consists of a pond located in Highgate Wood within the Gun Club grounds at Rectory Farm and is not located within the area for development. However, an unnamed tertiary river flows east towards the southern boundary of the Main Site. An unnamed tertiary river / drain crosses the centre of the Bypass Corridor. This is classed as a secondary river where it crosses the site for a second time in the south-east corner.
- 7.10.14. None of the Proposed Development is located within a Groundwater Source Protection Zone. The two main aquifer designations on site are the Blisworth Limestone Member, which is a Principal Aquifer, with the Glaciofluvial Deposits being a Secondary Aquifer.
- 7.10.15. Whilst ground investigation results identified concentrations of contamination within the Proposed Development site, many were at or below detection limits. No significant soil gas concentrations of concern were evident.
- 7.10.16. The Proposed Development is not located within an area affected by coal mining or mining instability. In addition, no recorded licensed waste management facilities are located on any part of the Proposed Development site.
- 7.10.17. The main receptors identified as being potentially at risk from land contamination that could be present on both the Main Site and Bypass Corridor are:

- construction and maintenance workers;
- adjacent commercial workers;
- adjacent residential workers;
- future site users;
- surface water; and
- groundwater.

Mitigation

- 7.10.18. The CEMP [REP6-003] is the overarching document to control impacts during construction and from which phase-specific P-CEMPs would be produced. The CEMP would set out systems and controls that would be adopted and developed during the construction of the Proposed Development to minimise any adverse environmental impacts. The provision of P-CEMPs to accord with the principles of the CEMP is secured by Req 12 of the dDCO.
- 7.10.19. In addition to phase-specific P-CEMPs, bespoke site-specific construction environmental monitoring and management plans would be formulated. As the site is considered clean, and no contaminated soils requiring remediation or special controls have been identified, it is not considered necessary to prepare a Materials Management Plan (MMP) in accordance with the CL:AIRE Code of Practice. Should recycled or re-used materials from off-site sources be utilised, or if unforeseen deposits are encountered, a MMP may be necessary. Alternatively, off-site sourced materials would need to demonstrate compliance with suitable environmental quality standards.
- 7.10.20. The Proposed Development is not anticipated to interfere with the secondary aquifers. However, construction techniques would be utilised to minimise risk of increased infiltration from surface water and migration of silts to surface water receptors. Furthermore, the Proposed Development is not anticipated to interfere with or directly affect any streams.
- 7.10.21. Where pre-existing contamination has been found to exist, contractors would be required in accordance with Reqs 25 and 26 of the dDCO to undertake remediation measures identified in the geo-environmental assessment, investigations and reports.
- 7.10.22. The Bypass Corridor crosses the Roade Cutting SSSI, which is designated for its geological importance only and relates to the cutting faces when the railway line was constructed. The SSSI only relates to the lower sections of the cutting and is approximately 1.5 km long.
- 7.10.23. As the Bypass Corridor would bridge the mainline railway, it is unlikely to impact on the SSSI. It is also possible that the bridge may be piled to avoid any loading of the slope which may affect stability. If traditional bank seat foundations are utilised, such foundations would be taken back from the crest to avoid loading of the slopes and negatively impacting on stability. Such measures would be secured by Req 13 within the dDCO. Req 13 would include an Earthworks Strategy, which would provide for the management and protection of soils; an earthworks specification and cutting slopes and embankment design.

- 7.10.24. In relation to operational mitigation, no exposure pathway would be present which would allow discharges to land, surface water or groundwater. At the same time, fuels, chemicals and hazardous materials would be stored and used in accordance with pollution prevention control regulations.
- 7.10.25. Following the implementation of both the construction and operational mitigation measures, no areas of land permitted or allocated for future provision of mineral or aggregate resource supply would be sterilised. The re-use of clean natural soils would not result in any negative impact on rivers or aquifers.
- 7.10.26. Appropriate environmental monitoring control measures would be enforced, with the construction contractor adhering to best construction practice techniques.
- 7.10.27. Taking the mitigation into consideration, the ES concludes that for both construction and operational stages the residual impact on geology, soils and groundwater would be negligible.

Planning Issues

- 7.10.28. In its LIR [REP1-036], NCC notes that the Proposed Development may result in a significant increase in the proportion of the site that would be impermeable to infiltration. This in turn could increase the risk of surface water flooding downstream of the Proposed Development. However, NCC acknowledge the potential for the development in incorporate mitigation measures to alleviate such issues. Flood prevention is considered in section 7.9 of this Chapter, above.
- 7.10.29. The SoCG with EA, SNC, NCC and NE [APP-384] records that the parties are in agreement that the assessments undertaken by the Applicant have not identified any significant contamination-related risks affecting human health, controlled waters or the environment that are considered likely to significantly impact upon environmental receptors and detrimentally have an impact on the viability of the Proposed Development.
- 7.10.30. Agreement has also been reached confirming that no significant risks have been identified which would suggest that the Proposed Development would be inappropriate for the ground conditions at the site. Furthermore, no significant impacts would occur which would detrimentally or substantially impact upon the Roade Cutting SSSI.
- 7.10.31. A relatively small number of representations made specific reference to geology-related matters, including [RR-348], [RR-571], [REP1-048], [REP1-054] and [REP1-090]. Concerns related to the Proposed Development preventing rain soaking into the ground, possible chemical spills, land stability and the stability and impact on the Roade Cutting SSSI.

The ExA's Considerations

- 7.10.32. Through both its initial [PD-007] and further set of written questions [PD-010] the ExA sought to query and clarify various aspects of the assessment

of effects on geology, soils and groundwater resulting from the Proposed Development as set out in Chapter 6 of the ES [APP-092].

- 7.10.33. As a result of answers and clarifications provided and having regard to the concerns raised regarding potential impacts on geology, soils and groundwater, we are satisfied that the assessment undertaken is sufficiently robust to provide meaningful outputs that can be relied upon.
- 7.10.34. In terms of the Roade Cutting SSSI, the concerns regarding the issues of stability and any potential detrimental impact has been noted. However, NE in its SoCG [REP1-018] confirms that it does not foresee that any “*significant detrimental impacts would occur which would detrimentally or substantially impact upon the Geological SSSI- Roade Cutting*”. Furthermore, NE is satisfied that the protection of the SSSI would be adequately handled through a CEMP.
- 7.10.35. Reqs 5 and 6 of the recommended dDCO would also ensure that the design of the bridge design for the Bypass Corridor would be configured to avoid interfering with the slope of the SSSI.
- 7.10.36. Accordingly, we are of the opinion that, due to the provision of a relevant P-CEMP as secured by Req 12 and approved design details in accordance with Reqs 5 and 6 of the recommended dDCO, the SSSI would not be subject to any significant or adverse harm.
- 7.10.37. No shortage of mineral resource elsewhere within Northamptonshire or the wider region has been identified. Furthermore, allocated resources are available for approximately the next 20 years. This is agreed with the Mineral Safeguarding team of NCC [APP-181].
- 7.10.38. Regarding cumulative effects, in addition to the two committed SUE developments, given the distance from the Proposed Development, no significant cumulative effects or impacts are anticipated.
- 7.10.39. In terms of the RC proposal we consider that any cumulative impacts would be more appropriately addressed within the context of that Examination and the circumstances pertaining, when and if it takes place. Nonetheless, in responding to the Applicant’s UCIA [REP5-026], RC indicates its belief that there would be no adverse cumulative effects on geology, soils or groundwater from the two projects.

Conclusion on Geology, Soils and Groundwater

- 7.10.40. The geology, soils and groundwater located beneath the Proposed Development present low or very low existing impacts and risks to the environment, particularly to aquifers, rivers, site users and adjacent land uses.
- 7.10.41. Taking all relevant documents and policies into account, the ExA concludes:

- the Proposed Development would not lead to significant adverse impacts in terms of geology, soils and groundwater once suitably and appropriately mitigated; and
- the Proposed Development would therefore accord with Section 5 of the NPSNN.

8. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

8.1. INTRODUCTION

- 8.1.1. This chapter of the Report sets out the analysis, findings and conclusions relevant to Habitats Regulation Assessment (HRA) and will assist the SoS in performing his duties under the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as amended) ('the Habitats Directive'), as transposed in the United Kingdom (UK) through The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 8.1.2. It is the 2017 Habitats Regulations under which the application for development consent must be considered in the context of these regulations.
- 8.1.3. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects of the Proposed Development on European sites, the competent authority considers it passes the relevant tests in the Habitats Regulations.
- 8.1.4. The SoST is the competent authority for the purposes of the Habitats Directive and Habitats Regulations for national networks applications submitted under PA2008. The ExA has considered throughout the examination process the need to ensure that the SoS has an adequate basis of information from which to carry out his duties as competent authority, informed by and compliant with the policy set out in the NPSNN (para 4.22) (including making an appropriate assessment).

8.2. HRA IMPLICATIONS OF THE PROJECT

- 8.2.1. As noted in section 4.9 of Chapter 4 of this Report, the Applicant submitted with the application a Report on European Sites (RES) which considered the HRA implications of the Proposed Development [AS-012].
- 8.2.2. Section 3 of the RES explains that the Applicant used the MAGIC⁷⁴ database which is managed by NE / Defra to identify any Impact Risk Zones (IRZ) that could interact with the Proposed Development. Paragraph 3.2 of the RES indicates that much of the Proposed Development lies within a 0km – 10km IRZ for the Upper Nene Valley Gravel Pits SPA / Ramsar but is not a development type that NE (the relevant Statutory Nature Conservation Body) highlights as a concern for this part of the IRZ. However, a small portion of the Junction 15

⁷⁴MAGIC provides geographic information about the natural environment from across Government
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highway improvements falls within a 0km – 5km IRZ and road works are amongst the types of work that NE does wish to be consulted upon. Therefore, effects on the Upper Nene Valley Gravel Pits SPA / Ramsar have been assessed.

- 8.2.3. The Proposed Development does not affect any other IRZ, with no other statutorily designated nature conservation sites of international importance within 10km of the Proposed Development and so no other European sites have been considered. The RR from NE confirms that the SPA and Ramsar site is the only relevant European site for the Proposed Development [RR-022].
- 8.2.4. The Upper Nene Valley Gravel Pits SPA / Ramsar lies approximately 5.5km from the boundary of the Main Site of the Proposed Development and approximately 7.5km north-east of the Road Bypass Corridor. It is designated for its wintering and breeding bird populations. Its qualifying species are bittern (*Botaurus stellaris*) and golden plover (*Pluvialis apricaria*). It is also used by gadwall (*Anas strepera*), a migratory species, and has qualifying assemblages of over 20,000 water-birds. It further qualifies for the identification as a Ramsar site because it regularly supports 1% of the individuals in the population of mute swan (*Cynus olor*).
- 8.2.5. Bird surveys have been carried out by the Applicant to establish if land for the Proposed Development was being used by species which are designated features of the SPA / Ramsar. Paragraph 5.2 of the RES indicates that the survey methodology was agreed with NE. The survey results in section 5 of the RES show that whilst golden plover were recorded in large numbers on the site in 2013/14, these represented only 1.25% of the SPA population. Much lower numbers or no golden plover have been recorded in subsequent surveys. Lapwing (*Vanellus vanellus*) have been recorded, this species being identified as an assemblage feature of the SPA / Ramsar, but these numbers are below any threshold of significance.
- 8.2.6. The RES considers potential in-combination effects with other plans and projects. The sites considered include the two committed and allocated SUEs of Northampton South and South of Brackmills together with the potential development of the RC site. In the latter case the Preliminary Environmental Investigation Report for the application did not record either golden plover or lapwing. As a result, the RES notes that there would be no in-combination effects on supporting habitats / functionally linked land that would lead to significant effects on the interest features of the SPA / Ramsar.
- 8.2.7. Based on the RES and the winter bird survey, NE's letter of 30 July 2018 at Appendix B concurs with this assessment and it raised no objection. This view has been subsequently endorsed in a SoCG between the Applicant and NE [REP1-018]. The SoCG records the agreement that the evidence demonstrates beyond reasonable scientific doubt that there would be no likely significant effect on the integrity of the Nene Valley Gravel Pits SPA / Ramsar as a result of the construction

and operation of the Proposed Development and appropriate assessment is not required.

8.3. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 8.3.1. Having considered carefully the relevant evidence, the ExA is satisfied that there are no likely significant effects of the Proposed Development on any European site or their qualifying features, a view which is endorsed by NE.

8.4. HRA CONCLUSIONS

- 8.4.1. The ExA recommends as follows in relation to the HRA process:
- there are no likely significant effects of the Proposed Development on any European Sites or their qualifying features, a view shared by NE;
 - no mitigation relevant to HRA has been proposed and none is required; and
 - the Proposed Development could proceed without an appropriate assessment being undertaken by the SoS.

9. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

9.1. INTRODUCTION

- 9.1.1. The statutory framework for deciding NSIP applications where there is a relevant designated NPS is set out in s104 of PA2008. The SoS must decide the application in accordance with any relevant NPS, with exceptions. Paragraph 4.2 of the NPSNN states that:

"Subject to the detailed policies and protections in the NPS, and the legal constraints set out in the Planning Act, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the NPS."

- 9.1.2. Paragraph 4.3 of the NPSNN states that:

"In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the ExA and the Secretary of State should take into account:

- its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits;*
- its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts".*

- 9.1.3. The ExA's conclusions on this case for the granting of development consent are based on an assessment of those matters which we consider are both important and relevant to the decision, as well as the submitted LIRs, as required by s104 of PA2008. We have drawn on the analysis of planning considerations in Chapters 4 - 7 and Habitats Regulation Assessment in Chapter 8 above.

9.2. THE PLANNING BALANCE

Policy justification for the Proposed Development

- 9.2.1. We consider that the Proposed Development complies with the criteria for SRFIs as set out in paragraphs 4.83 to 4.89 of NPSNN. The need for the scheme has been sufficiently made out.

EIA considerations

- 9.2.2. The Proposed Development is Environmental Impact Assessment (EIA) development.
- 9.2.3. The submitted Environmental Statement, as augmented by material submitted during the Examination, has provided an adequate assessment of the environmental effects of the Proposed Development. This is sufficient to define the Rochdale Envelope for it and, as referred to within

the recommended draft Development Consent Order (dDCO), to secure its delivery within that envelope.

- 9.2.4. We draw to the SoS's attention that we have suggested he may wish to satisfy himself in relation to on-site construction plant and traffic emissions and construction traffic emissions effects, and the need to form a conclusion on the effects of Brexit on future labour supply. Subject to that our conclusions are set out below.

HRA considerations

- There were no matters germane to HRA that required to be considered as part of the reasoning in respect of planning issues in Chapters 5 to 7 of this Report.
- There are no likely significant effects of the Proposed Development on any European Sites or their qualifying features, a view shared by NE.
- No HRA-relevant compensatory measures have been provided, because none are required.
- The Proposed Development can proceed without an appropriate assessment being undertaken by the SoS.

Transport

- The effects on the surrounding highway network would not result in any permanent moderate or major significant adverse residual impacts.
- The construction phase would have temporary adverse impact of moderate significance.
- The modal shift and resultant reduction in HGV mileage represent a permanent beneficial impact of major significance.
- The residual effects of the Proposed Development and highway mitigation works are a permanent beneficial impact of major significance.
- Impacts on pedestrians, cyclists, equestrians and the community would be permanent adverse of minor significance in terms of amenity and negligible in terms of severance, journey length and local travel patterns in respect of those PRow other than those crossing the Main Site.
- Impacts on drivers would be permanent beneficial of moderate significance in terms of driver stress and there would be negligible impact on the views from roads.
- Cumulative impacts with Rail Central cannot be assessed on current data.
- The policies in the NPSNN are met and there are benefits in drawing traffic away from local roads and the provision of the Roade Bypass; any conflicts with other policies are not such as to attract very much weight.
- In the balance of probabilities, it is feasible that the Proposed Development could be connected to the rail network and be capable of being served by four trains per day, in accordance with NPSNN.
- The ability for rail freight traffic to grow and for the SRFI to be served by an aspirational 16 trains per day is more uncertain. This is because of likely constraints and competition on the network and the

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unknowns as to how the network could accommodate growth several years hence. However, this has to be seen against the background of the Government's belief as set out in paragraph 2.53 of the NPSNN that it is important to facilitate the development of the intermodal rail freight industry as part of its vision for transport in a low carbon sustainable system that is the engine for economic growth. It also should be seen against the commitment to facilitate rail growth over the coming years.

Air Quality

- The Proposed Development is anticipated to have negligible impact on annual PM₁₀ concentrations.
- The Proposed Development is anticipated to have negligible impact on annual NO₂ concentrations in most study areas with some locally significant but temporary impacts in 2021 and the interim period. There would be negligible increases above the limit values at two receptors in study area Air Quality Management Areas (AQMA) 2, 6, 8 and study area AQMA 3.
- The Proposed Development is predicted to have a slight adverse impact on annual mean NO₂ concentrations in AQMA No 4 in 2021 and the interim period and a slight beneficial impact in AQMA 3 in 2021 and the impacts on those two areas would by 2031 be negligible.
- The implementation of the Roade Bypass would result in slight beneficial impacts for NO₂.
- There would be no non-compliance or delay to compliance of the UK National Plan or EU Air Quality Directive limits.
- There is predicted to be a 469.1 tonne reduction in NO_x emissions and 122.9 tonne reduction in PM₁₀ emissions between 2021 and 2035.
- Other beneficial effects on air quality would be likely to arise from the operation of the proposed Travel Plan.
- Cumulative impacts with RC cannot be assessed on current data.
- Overall, in terms of air quality there would be no likely significant adverse impacts and the Proposed Development would be policy compliant with the NPSNN.

Socio-economic Impacts

- The Proposed Development would secure significant employment opportunities both during construction and operation.
- The Proposed Development would deliver significant economic benefits within the Study Area covering six local authorities, including Gross Value Added and business rate retention.
- There would be a minor beneficial effect on health and well-being and the impacts on housing demand would be broadly neutral.
- The Proposed Development would contribute to the delivery of several of the aspirations and objectives identified for the region by South East Midlands Local Enterprise Partnership.
- Due to the significant benefits in terms of potential employment creation, the Proposed Development is compliant with policy 2.52 of the NPSNN and the economic development priorities contained within the South Northamptonshire Council Economic Development Strategy.

Landscape and Visual Impacts

- There would be a major adverse impact of the Proposed Development in both landscape and visual terms during construction, but this would be time-limited.
- In respect of the Roade Bypass, following mitigation landscaping and screening, the impact would be only moderately adverse.
- There would be a major adverse impact in landscape and visual terms within the Main Site because of its completely transformative nature, though this could be mitigated to some degree through adherence to good design principles. Within the immediate and wider vicinity of the Main Site, following mitigation landscaping and screening, impact in visual and landscape terms would be moderately adverse.
- There would be moderate to major adverse visual and experiential impacts for users of footpaths KX13 and KX17 but this would be mitigated to an extent allowable in NPSNN policy terms.
- Sufficient regard has been paid to satisfying the criteria of good design and to appropriate mitigation such that the Proposed Development would be compliant with the NPSNN on these matters.
- The extent and nature of the mitigation for the Proposed Development as a whole would be such that consent should not be refused on landscape or visual grounds.

Noise and Vibration

- The Proposed Development would not lead to significant adverse impacts in terms of construction or operational noise and vibration once suitably and appropriately mitigated and would be policy-compliant with the NPSNN.
- The provision of the Roade Bypass would reduce the number of residential properties within the village exposed to the highest levels of road traffic noise. This would represent a benefit of the Proposed Development.

Biodiversity, Ecology and the Natural Environment

- There would be no direct impacts on internationally or nationally designated sites, nor on any LWSs.
- Mitigation would ensure adequate protection for all identified habitats and fauna, including protected species, from significant adverse effects.
- Mitigation would include substantive net gains in woodland, structural and shrub planting, water features, non-agricultural grassland and hedgerows. This would represent a net benefit of the Proposed Development.
- The Proposed Development would be compliant with policy within the NPSNN aimed at protecting habitats and species and ensuring mitigation of impacts, and with the thrust of policies on these matters in the WNJCS and the South Northamptonshire Local Plan.

Historic Environment

- Impacts on the historic environment, including the potential archaeological resource, have been sufficiently assessed and would be mitigated. They and are capable of being managed as part of the recommended dDCO requirements.
- There would be less than significant harm in respect of impact on the setting of the Collingtree and Milton Malsor Conservation Areas, the Courteenhall Registered Park and Gardens, the listed Churches of St Columba and the Holy Cross, Mortimers, the Courteenhall War Memorial, Hyde Farm House and associated dovecote, and the Roade Aqueduct. In all cases the impact would be either minor adverse or negligible and in the case of the listed buildings their setting would be preserved.
- The loss of two non-statutorily designated heritage assets of local significance would be a minor negative aspect of the Proposed Development.
- The Proposed Development would be compliant with NPSNN paragraphs 5.128 - 5.138 and relevant policies within the WNJCS.

Agricultural Land

- Although there would be a loss of 33.3 ha of Best and Most Versatile land, within the context of significant areas of grade 1 and 2 land around Northampton the Proposed Development would not result in significant adverse impacts overall in terms of agricultural land and would be NPSNN policy-compliant.

Lighting

- The Proposed Development would not lead to significant adverse impacts in terms of external lighting once suitably and appropriately mitigated and would therefore be NPSNN policy-compliant.

Waste Management

- The waste management effects of the Proposed Development are acceptable and are NPSNN policy-compliant.

Water Environment

- The Proposed Development is NPSNN policy-compliant in relation to flood risk.
- Discharges to the wider catchments would meet the Water Framework Directive and are therefore policy-compliant.
- The introduction of Sustainable Drainage Schemes for both the Main Site and the Roade Bypass Corridor would mean that the water environment effects of the Proposed Development would be positive overall.

Geology, Soils and Groundwater

- The Proposed Development would not lead to significant adverse impacts in terms of geology, soils and groundwater once suitably and appropriately mitigated and would be NPSNN policy-compliant.

9.3. OTHER STRATEGIC PROJECTS AND PROPOSALS

- All relevant interrelationships between the Proposed Development and the South Northampton and the South of Brackmills Sustainable Urban Extensions have been considered to the extent that these are known. No significant adverse cumulative effects are likely.
- Assessment of cumulative traffic impacts have satisfactorily taken into account committed and allocated developments.
- Interrelationships with the neighbouring Rail Central SRFI proposal have been considered. The RC scheme is not a committed development but is another NSIP application, whose Examination is not now likely to commence until December 2019. It is therefore considered that cumulative and in-combination assessment involving the RC proposal would be more appropriately carried out in the context of the RC application Examination and the circumstances pertaining when and if that Examination takes place.
- Bearing the above in mind, NPSNN policy requirements in relation to cumulative and in-combination assessment for EIA purposes have been met.

Other considerations

- 9.3.1. Bringing the above conclusions together, the ExA notes the Government's support for the need for the development of an expanded network of SRFIs. This is to assist in facilitating modal transfer from road to rail, thereby playing an important part in a low carbon economy and assisting in addressing climate change. The Proposed Development would contribute in delivering this policy.
- 9.3.2. The potential adverse impacts of the Proposed Development and the concerns raised by those who made submissions on the application have been carefully considered. There would be some harmful effects as detailed above. However, some of these would be limited to the construction period and would be temporary. All are mitigated as far as possible through controls secured through the recommended dDCO. All harmful effects are within the scope envisaged in the NPSNN as still being policy-compliant.
- 9.3.3. All the impacts identified above fall to be considered together in the context of the Proposed Development as a whole. In particular, this consideration should be undertaken alongside the identified benefits of the Proposed Development in relation to meeting the need for an expanded network of SRFIs identified in the NPSNN. Substantial weight is attached to these benefits.

OVERALL CONCLUSION ON THE CASE FOR DEVELOPMENT

- 9.3.4. In the ExA's judgement, the strategic benefits of the Proposed Development of contributing to an expanded network of SRFIs to assist in achieving and promoting modal shift of freight from road to rail, and thereby playing an important part in the move to a low carbon economy,

are such that they outweigh the adverse impacts that are identified above in relation to the construction and operation of the Proposed Development.

- 9.3.5. The adverse impacts do not outweigh the benefits of the Proposed Development.
- 9.3.6. No HRA effects have been identified and there is no reason for HRA matters to prevent the making of the Order.

10. COMPULSORY ACQUISITION AND RELATED MATTERS

10.1. INTRODUCTION

- 10.1.1. The application subject to Examination included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land. This Chapter records the Examination of those proposals and related issues.

10.2. LEGISLATIVE REQUIREMENTS

- 10.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of PA2008, together with relevant guidance in 'Guidance Related to Procedures for the Compulsory Acquisition of Land', DCLG, September 2013 (the former Department for Communities and Local Government (DCLG) CA Guidance) are met.
- 10.2.2. Section 122(2) of PA2008 requires that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate⁷⁵.
- 10.2.3. Section 122(3) of PA2008 requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right.
- 10.2.4. Section 123 of PA2008 requires that one of three procedural conditions in subsections (2) to (4) must be met by the application proposal, namely:
- (2) *The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.*
 - (3) *The condition is that all persons with an interest in the land consent to the inclusion of the provision.*
 - (4) *The condition is that the prescribed procedure has been followed in relation to the land.*
- 10.2.5. A number of general considerations also have to be addressed, either as a result of following the applicable guidance or in accordance with legal duties on decision-makers:
- all reasonable alternatives to CA must have been explored;

⁷⁵ DCLG CA Guidance
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- the applicant must have a clear idea of how it intends to use the land subject to CA powers;
- the applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

10.2.6. Further to Part 1 of Schedule 5 to PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the associated DCLG CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers as, by definition, such powers do not seek to permanently deprive or amend a person's interests in land.

10.2.7. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters, and of the extended durations for which TP can be sought, the NPA2017 provisions in general terms provide for enhancements to the rights of Affected Persons (APs) subject to TP. This is with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the closure of the Examination the relevant provisions had not yet commenced.

10.2.8. All relevant legislation and guidance are taken into account in the reasoning below and relevant conclusions are drawn at the end of this Chapter in relation to both CA and TP.

10.3. THE REQUEST FOR CA AND TP POWERS

10.3.1. The Application dDCO [APP-070] and all subsequent versions submitted by the Applicant up to the latest dDCO revision (Doc 3.1E) submitted at D6 [REP6-005] include provisions intended to authorise CA of both land and rights. Powers for the TP of land are also sought.

10.3.2. On this basis, the application was accompanied by a Book of Reference (BoR) [APP-075], Land Plans [APP-005 to APP-011], a Statement of Reasons (SoR) [APP-073] and a Funding Statement (FS) [APP-074]. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons for their requirement and the basis under which compensation would be funded. As is normal, the Examination and due diligence processes led to changes to some of this documentation.

10.3.3. By the close of the Examination, the most up-to-date versions were as follows:

- BoR (Doc 4.3B) submitted at D7 [REP7-005 (clean), REP7-004 (tracked)]⁷⁶;
- Land Plans
 - Key Plan (Doc 2.1 Rev 08) [AS-062]
 - Land Plan Sheet 1 (Doc 2.1A Rev 06) [APP-006]
 - Land Plan Sheet 2 (Doc 2.1B Rev 8) [AS-066]
 - Land Plan Sheet 3 (Doc 2.1C Rev 06) [APP-008]
 - Land Plan Sheet 4 (Doc 2.1D Rev 9) [REP7-003]
 - Land Plan Sheet 5 (Doc 2.1E Rev 06) [APP-010]
 - Land Plan Sheet 6 (Doc 2.1F Rev 07) [AS-009]
- SoR [APP-073]
- FS [APP-074] with SEGRO Annual Report and Accounts 2018 submitted at D7 [REP7-021]

10.3.4. These documents taken together form the basis of the analysis in this Chapter. References to the BoR and the Land Plans in this Chapter from this point should be read as references to the latest revisions cited above. It should be particularly noted that all Land Plan plot references employed in this Chapter are correct as per the most recently submitted Land Plans.

10.3.5. Land over which CA and / or TP powers are sought is referred to in this Chapter as the Order land. Approximately 21.5% of the total 290.5 ha of the Order land is subject to requests for CA of land and / or rights with some 9% subject to requests for TP.

10.4. THE PURPOSE FOR WHICH LAND IS REQUIRED

10.4.1. The purposes for which the CA and TP powers are required are set out in the SoR [APP-073] and the BoR [REP7-005].

10.4.2. In general terms, CA is sought for land that would be required permanently for the construction and operation of the SRFI on the Main Site. In this respect the Land Plans and the BoR show that the Applicant has, through voluntary agreement, secured the freehold interest in the majority of the land required. However, there are additional parcels of land on the Main Site for which CA powers are sought in order to secure the development as applied for. These include parcels for structural landscaping, including screen bunding, boundary treatments, footpath provision, relocation of existing communications masts, and new railway line and connections to serve the SRFI.

10.4.3. With regards to the associated development of the proposed Roade Bypass, CA powers are sought to ensure the uninhibited delivery of the road infrastructure. Because of the commitment to the delivery of the

⁷⁶ Although the Applicant has stated in its post-hearing submissions [REP6-012] that the BoR submitted on 8 February 2019 (Doc 4.3A [AS-060]) represented the final version, Doc 4.3B [REP7-005] is the final version

bypass within the early stages of the development on the Main Site⁷⁷, certainty of land acquisition for the road is required.

- 10.4.4. Several parcels of land, most of which are land connected with highway use, are required to allow the alterations to Junction 15 of the M1 and the A45. There are several additional parcels which, whilst not currently connected with highway use, are also required to allow the proposed alterations to the above highway components.
- 10.4.5. Land is further required to allow other associated development highway improvement works, including junctions along the A508 and at Knock Lane⁷⁸. There are in total some 51 plots of land subject to the CA of land and rights (coloured pink on the Land Plans).
- 10.4.6. The CA of rights and / or the creation of new rights is also required to allow the construction of the Roade Bypass over the West Coast Mainline railway, improvements to the footbridge from the Main Site over the M1, construction of new sewers and improvements and alterations to existing sewers adjacent to the A45, and drainage works connected with the Roade Bypass. Additionally, the CA of rights is required over, under and adjacent to the West Coast Mainline Northampton Loop railway line to allow the connection of the new railway line from the rail freight terminal to the existing railway line. They are also required in connection with the realignment and widening of the northbound slip road from the A508 to the M1. There are some 15 plots of land affected (coloured blue on the Land Plans).
- 10.4.7. TP is sought for the time-limited purpose of use of land for two construction compounds for the Roade Bypass, in connection with the construction of the bypass, works to PRoW, and to carry out works to private accesses off the A508. TP is further requested to permit structural landscaping, boundary treatment, retention of woodland and agricultural land and floodplain compensation works on a southern section of the Main Site. There are 11 plots affected (coloured yellow on the Land Plans).
- 10.4.8. Articles 24 and 25 of the recommended dDCO respectively provide the power for the CA of land and rights. Art 25 relates to CA powers to acquire compulsorily existing rights and create and acquire new rights. This land would also be subject to the general powers in Part 5 of the recommended dDCO, including the power to override private rights where they are inconsistent with the authorised development (Art 28). Art 35 provides TP powers, whilst Art 32 applies the Compulsory Purchase (Vesting Declarations) Act 1981 with modifications.

⁷⁷ Completion of the bypass is to be within the earliest of either two years of occupation of the first warehouse or four years from the commencement of Works No. 8 (works to Junction 15 of the M1, works to the M1 and A45), secured by Req 6 of the recommended dDCO

⁷⁸ Works Nos 14 and 16

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- 10.4.9. There are no Crown interests in any of the land affected and no land which is classed as special category land.

10.5. EXAMINATION OF THE CA AND TP CASE

- 10.5.1. The examination of the application included consideration of all submitted written material relevant to CA and TP. Two Compulsory Acquisition Hearings (CAHs) were held together with unaccompanied and accompanied inspections of land subject to CA and TP requests. These processes are described below.

Written process

- 10.5.2. Within RR the following raised objections or issues in relation to the CA or TP requests in the application, or the effects of it:
- Network Rail has interests in plots identified in the BoR. It objected to powers sought to carry out works in the vicinity of the operational railway without appropriate protective provisions being included in the dDCO to safeguard the integrity of its statutory undertaking [RR-572].
 - Mr and Mrs Bament objected on the basis that the design of the works connected with the A508 and Roade Bypass did not provide sufficient detail as to the provision being made to change the access to their property included in land parcel 5/3. If inadequately designed there could be concerns regarding highway safety, site security and landscaping of the entrance [RR-620].
 - Messrs A W, W and R Irlam expressed concern that the Order lands involved an excessive area of productive Grade 3 arable land being taken out of agricultural use, together with a large amount of well-established hedgerow adjacent to the A508 with consequent loss of habitat⁷⁹ [RR-789].
 - RC noted in its RR that it has an option agreement in respect of land parcels 1/7 and 1/12. These form part of the land required for RC to partially offset the loss of farmland, to provide landscape and visual impact mitigation and allow the diversion of a PRoW [RR-638].
 - Mr Stuart Dunkley expressed concerns in relation to the Roade Bypass Corridor land acquisition in respect of severance of land and impact on farming activities [RR-631].
- 10.5.3. The ExA's first written questions (ExQ1) included those relevant to CA and TP [PD-006]. These sought clarification on a number of matters including:
- explanation of registered third party rights on land adjacent to the West Coast Northampton Loop Line and for which the Applicant required the ability to extinguish, suspend or interfere with in the event that they may be inconsistent with the Proposed Development;

⁷⁹ Their concern also related to the potential safety of the proposed revised junction of the A508 / Rookery Lane / Ashton Road with regards crossing by agricultural vehicles

- explanation of the circumstances surrounding parcels 1/7 and 1/12 which are parcels in respect of which RC had agreement with the owner; and
- the rationale for the width of the corridor of the Roade Bypass in respect of which CA of land and rights were sought.

- 10.5.4. Additionally, ExQ1 requested the Applicant to provide an update of negotiations with parties in respect of which voluntary agreements were being sought in terms of acquisition of land and rights, including the listing of all extant objections.
- 10.5.5. Certain of the Land Plans submitted with the Application were amended during the course of the Examination. These were Land Plans 2 [AS-066] and 4 [REP7-003], together with an updated Key Plan [AS-062]. Land Plan 2 was amended to show Plot 2/47 as not now being subject to CA, whilst Land Plan 4 was amended to show plot revisions relating to the land in the vicinity of Hyde Farm House, Roade. The Key Plan was revised to reflect the changes to Land Plans 2 and 4. It is therefore these plans, together with the others referred to above, that the ExA has considered in reaching its conclusions in this Report.
- 10.5.6. The revised BoR [REP7-005] (clean) and [REP7-004] (tracked), which take account of diligence revisions, were submitted at D7. Together with the SoR [APP-073], these have informed the CA and TP conclusions in this Report.

Hearings

- 10.5.7. Two CAHs were held [EV-027, EV-022] as set out in Chapter 1 of this Report. A request to be heard at the CAHs was made by RC. Representatives from RC attended both CAHs and at the second CAH Mr Nola and his representative and those on behalf of Mr and Mrs Bament and the Irlam family also participated. The hearings were held to orally examine objections, the Applicant's case for CA and TP powers and to seek updates on negotiations.

Site Inspections

- 10.5.8. An unaccompanied site inspection [EV-005] together with an accompanied site inspection [EV-007] provided the ExA with an understanding of the location and condition of land parcels proposed to be subject to CA and TP powers.

Consideration of CA and TP Issues

- 10.5.9. This section sets out the Applicant's general case for CA and TP. Consideration of particular objections are in the following section.
- 10.5.10. The SoR [APP-073] sets out the requirement for the land. The Planning Statement [APP-376] provides a justification for the Proposed Development against the NPSNN and other relevant national and local policies. A summary of the key conclusions of the Planning Statement is also contained within the SoR and the question of need for the Proposed
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Development is underpinned by the Market Analysis Report [APP-378]. It is the Applicant's case that the need for the development has been made out.

10.5.11. Within the SoR the Applicant has addressed the general considerations which the DCLG Guidance indicates should be demonstrated to justify the powers sought as follows:

- reasonable alternatives to CA and TP have been explored;
- the Applicant has a clear idea of how it intends to use the land;
- the proposed acquisition is legitimate, proportionate and necessary;
- there is a compelling case in the public interest;
- there is funding for the acquisition; and
- the interference with Human Rights is proportionate and justified.

10.5.12. The latter two elements of the above are addressed in separate sections below.

Reasonable alternatives to CA and TP

10.5.13. The Applicant has examined other sites upon which the need identified in the NPSNN and the Market Analysis Report might be met. The Planning Statement and Chapter 2 of the ES (Description of Development) [APP-078] explain that there are no known preferable or reasonable alternative sites upon which that need can be met. These include the site for the RC proposed SRFI, which it is considered would have greater environmental impacts and is not therefore considered to be preferable or reasonable [APP-376, paras 4.178 – 4.192].

10.5.14. The Roade Bypass is required to help mitigate the impacts of development traffic. It would also deliver significant local transport and other environmental benefits including reduction of through traffic in Roade, reductions in noise in the village centre, and improved air quality. Options for the routing of the bypass were considered and consulted upon [APP-231, Chapter 6]. Having regards the reasons for the CA of the plots required for the bypass the Applicant notes in the SoR:

"It is commonplace for highway development to "cleanse" the title through seeking compulsory acquisition powers, in order to be certain that there are no interests which may impede the delivery of the proposed highway and its subsequent "dedication" to the relevant highway authority for maintenance. This is a reasonable position, given that the highway must be accessible to the public. In this case, the Applicant needs to demonstrate to the local highway authority that it can deliver the Roade Bypass and its associated infrastructure and services without restriction. Furthermore, it is important to demonstrate to the local highway authority that there will be no such restrictions upon the authority once it has taken the maintenance responsibility."

10.5.15. The Applicant has engaged with APs and in many cases has reached voluntary agreements with them. As recorded in the Applicant's Update on Negotiations [REP7-008], towards the close of the Examination there

were advanced stages of negotiation reached with the majority of other APs, including with Highways England.

The Applicant has a clear idea of how it intends to use the land

- 10.5.16. The SoR [APP-073] records what each plot is to be used for. The Land Plans show the location of each plot and whether it is for the CA of land, rights over land, or TP. In response to ExQ 1.3.6 as to the rationale for the corridor width of the Roade Bypass, the Applicant noted the need to allow an element of flexibility on the extent of highway works that would result from the detailed design process (such as signage, landscaping, fencing and drainage). There is also a need for allowance for temporary use such as for haul roads [REP1-020]. Notwithstanding this, the Applicant has stated its intention to only take the minimum land required for permanent works and any land that is only required temporarily would be returned to the landowner. This was the approach adopted in respect of the consented East Midlands Gateway development.

The proposed acquisition is legitimate, proportionate and necessary and there is a compelling case in the public interest

- 10.5.17. The SoR refers to justification for additional SRFIs as set out in the NPSNN, and the explicit reference to the compelling need for an expanded network of SRFIs (para 2.56). It summarises at paragraph 4.12 the key economic and transport benefits of the Proposed Development which include:
- the Proposed Development would result in around 7,400 additional jobs once fully operational bringing additional (temporary) employment during the construction period. The operational development would bring significant and positive economic effects at both the local and regional level, including wider economic effects on local and regional supply chains and other business-to-business links;
 - the Environmental Statement assessment indicates that the development would generate a contribution to Gross Value Added of some £348 million annually, and a total construction investment of around £400 million;
 - the benefits of a substantially improved M1 Junction 15 which would improve journey reliability and safety with reduced congestion at this key junction, consistent with the 'vision and objectives' of the NPS; and
 - the transport improvements and benefits delivered would support delivery of already planned housing and population growth in and around Northampton as the single principal urban area within West Northamptonshire.

- 10.5.18. The SoR notes that:

"These economic benefits are of relevance to the national economy as well as the sub-regional and local economy, and are a key factor in the 'compelling need' for a network of rail freight interchanges identified by Government in the NPS."

Consideration of individual objections and issues

Network Rail (NR)

Location: Railway lines and associated land on the West Coast Mainline and West Coast Mainline Northampton Loop

Interests

Rights to be acquired and / or created over plots 1/8, 1/10, 1/11a, 1/11b, 1/26, 1/30a, 1/30b, 3/1, 4/5a, 4/7, 4/8

Status summary: Apparent agreement reached on protective provisions but objection not withdrawn.

- 10.5.19. The Applicant seeks rights to connect the railway line from the proposed SRFI with the Northampton Loop and, additionally, construct a bridge crossing of the West Coast Mainline for the Roade Bypass with associated drainage works. Both temporary use of NR's land during the construction phase as well as works of a permanent nature are sought.
- 10.5.20. In its RR [RR-572] and WR [REP1-051], NR objected to CA without protective provisions being in place to ensure that there would be no detrimental impact on the operation of the railway, and which would allow NR to operate the railway safely and efficiently. NR's letter of 30 November 2018 indicated it could not agree protective provisions that would allow the Applicant to exercise CA powers in respect of NR's land without its consent. NR sought amendments to the protective provisions in Part 1 of Schedule 13 of the dDCO [REP3-017].
- 10.5.21. The Applicant subsequently provided suggested amendments in its dDCO for D6 [REP6-005]. These included 4(4) which would prevent the acquiring or use, or the acquiring of new rights, over any railway property under powers conferred by the Order without the consent of NR.
- 10.5.22. The Applicant's update on negotiations records that protective provisions have been agreed but that discussions were ongoing in respect of rights to construct the bridge for the Roade Bypass over the railway, noting also that these would be ongoing for some time [REP7-008]. The Applicant earlier responded to NR in respect of the need for Asset Protection Agreements, noting that their requirement is standard practice and would be needed before works commenced [REP2-010]. As set out in an SoCG [REP1-016], the designs for the overbridge to accommodate the Roade Bypass crossing of the WCML have been developed to NR's satisfaction, with detailed design approval governed by an existing Basic Asset Protection Agreement.
- 10.5.23. NR's final correspondence, submitted just before the close of the Examination, records that NR was holding advanced discussions with the Applicant regarding the content of a framework agreement to be entered into between the parties. Once this was done, NR anticipated that it would be able to withdraw its representation about the application [REP9-001].

The ExA's considerations

- 10.5.24. At the close of the Examination there had been no formal withdrawal of NR's objection to CA powers. Nevertheless, from the tenor of correspondence, it appears clear to the ExA that agreement between the parties was very near. The rights to be acquired and / or created are necessary to permit the realisation of the Proposed Development and CA would be justified. The SoS will no doubt wish to be satisfied that NR's objection has been withdrawn following the suggested likely agreement between the parties.

A and G Bament

Hill View Farm, Roade

Interests

Owner. TP of plot 5/3

Status summary: objection withdrawn

- 10.5.25. TP is required to carry out works to a private access in connection with the construction of the Roade Bypass. The owners were concerned that the details of the proposed alterations to the Hill View Farm access were not sufficiently detailed to assure them on matters of highway safety, gradient, layout and drainage, site security and landscaping.
- 10.5.26. Discussions have taken place with the Applicant and the objection to the accommodation works for the access to Hill View Farm entrance and provisions for access during construction of a permanent drive have been withdrawn in light of these [REP7-014].

The ExA's considerations

- 10.5.27. The provision of the Roade Bypass is a necessary and justified principal element of associated development with the Proposed Development to mitigate its impact. The TP powers sought over plot 5/3 are required and necessary as part of the construction of this road and are justified.

Messrs A W, W and R Irlam

Land west of the A508, Stoke Bruerne

Interests

Owner (A W Irlam). CA of plot 5/14

Status summary: objection withdrawn

- 10.5.28. The objection considered the loss of good productive agricultural land to the road improvement scheme to be excessive, with the loss of a well-established hedge whose habitat and environmental qualities would never be the same [RR-789].
- 10.5.29. The Applicant notes that land to the west side of the A508, to the south of Rookery Lane, Stoke Bruerne is required to provide improvements to, and widening of, this road's junction with the A508. This is shown on the Northampton Gateway SRFI TR050006

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Highways Plan 2.4E [APP-031]. The works would make significant improvements to visibility at a junction where this is currently poor and substandard, with the A508 to the immediate south having a poor safety record [REP1-022].

- 10.5.30. Agreement has been reached with Mr Anthony Irlam who has withdrawn his objection [AS-046 and confirmed in REP7-014].

The ExA's considerations

- 10.5.31. The land in question is an integral component of the improvement of the A508 / Rookery Lane / Ashton Road junction. This has been identified as a necessary mitigation measure associated with the Proposed Development. The CA of plot 5/14 to allow the required improvement to be carried out is therefore justified.

Mr and Mrs D and S Nola

Land at Hyde Farm, Roade

Interests

Owners. TP of plot 4/20b

Status summary: indeterminate in relation to TP matters

- 10.5.32. Mr Nola attended with his wife and spoke at the second CAH together with his agent [EV-022]. Their concern relates to the amendment of the scheme for bunding to screen their property from the proposed Roade Bypass. The original proposal called for CA of plot 4/20 and TP of plot 4/20a to permit the mitigation scheme. With the amendment⁸⁰ to the proposed bunding, no permanent acquisition of Mr and Mrs Nola's land now is required and the BoR [REP7-005] and relevant Land Plan (Sheet 4) [REP7-003] have been amended accordingly. The only land now affected is plot 4/20b where TP is proposed to divert the adjacent PRow.
- 10.5.33. The Applicant explains that the change has been made in order to seek to minimise any impact on the setting of Hyde Farm House, an historic asset, and also to reduce CA as far as possible. As an alternative to the original scheme has been identified, which avoids the need to compulsorily acquire land at Hyde Farm, there is now no basis to CA the land [REP6-012]. Mr and Mrs Nola indicated in their final correspondence that they do not refute the removal of permanent compulsory acquisition but request that the original design (the height) of the bund is reinstated as it provides significantly improved mitigation [REP7-018]. No comment or reference is made to temporary possession in relation to the PRow diversion.

⁸⁰ The detail of the amendment to the bunding is discussed in Chapter 7.2 of this Report in respect of noise attenuation
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The ExA's considerations

- 10.5.34. The concerns raised do not go to the substance of the justification or otherwise for CA or TP and are related to the mitigation effectiveness of the proposed landscaping for the bypass. This is dealt with in section 7.3 of Chapter 7 above. No objection has been specified in relation to the TP that is required to permit the revision to the PRoW. TP is required to allow appropriate modifications to the PRoW to be carried out and which are a corollary of the provision of the Road Bypass, which is a necessary element of mitigation for the Proposed Development. TP powers are therefore justified.

Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l (Rail Central)

Plots 1/7 and 1/12 (Main Site of the Proposed Development)

Interests

Qualifying Person as a beneficiary of an option agreement over the land. CA required

Status summary: objection withdrawn

- 10.5.35. Plots 1/7 and 1/12 form an integral part of the western section of the Main Site for the Proposed Development. They are required for structural landscaping, including screen bunding, boundary treatment, the provision of a footpath, and a railway line from the rail freight terminal to connect with the Northampton Loop Line. However, the plots also form part of the land required for the RC proposal. They are within that proposal's Order limits as land to partially offset the loss of farmland, to provide landscape and visual mitigation and to allow the diversion of a footpath. The Applicant was not able to enter into a voluntary agreement with the owners as the land is subject to an agreement with RC.
- 10.5.36. RC's position as set out in its WR [REP1-029] was that the Applicant had not addressed the extent to which a grant of a DCO for the RC scheme would comprise a risk or impediment to the implementation of the Northampton Gateway proposal or, whether and if so, how those risks or potential impediments could be properly managed. Its concern, as expressed at the first CAH, is to ensure that the exercise of CA powers does not have the effect of preventing its scheme being developed in an acceptable form [REP4-020].
- 10.5.37. The RC scheme has been specifically designed to accommodate the loss of the land sought to be acquired by the Applicant. However, that land remains of importance to RC because it is an area of interaction between the two schemes in relation to landscaping and footpaths. RC requires some form of protection to ensure that, however the scheme or schemes are developed, an acceptable arrangement for landscaping and footpaths could be implemented.

- 10.5.38. Both the Applicant and RC considered an accommodation could be reached and discussion between the parties progressed during the Examination. At the second CAH [EV-022] RC noted its position turned on ensuring appropriate requirements were contained in the Applicant's dDCO such that there is nothing within it that would prejudice the RC scheme coming forward. Requirements 30 – 32 in the latest dDCO are designed to achieve this⁸¹ [REP6-018]. The Applicant summarised in its post-CAH submissions that RC's position was one of not objecting to the CA of plots 1/7 and 1/12 provided these requirements are included [REP6-012]. Agreement was reached between the Applicant and RC on footpath connections between the two projects based on a plan submitted at D7 [REP7-011] and RC confirmed its withdrawal of objection to CA [REP7-009].

The ExA's considerations

- 10.5.39. Plots 1/7 and 1/12 are integral and essential components of the Proposed Development to allow it to proceed and its impacts to be appropriately mitigated. CA in the absence of voluntary agreement is justified to permit the development to proceed. The inclusion within the recommended dDCO of relevant requirements would safeguard the position of RC should that scheme progress.

Stuart Dunkley

Land to the north of Roade

Interests

Owner. CA plots 4/10, 4/12, 4/13, 4/17. TP plots 4/14, 4/15, 4/16

Status summary: objection withdrawn

- 10.5.40. In a RR [RR-631] concern was expressed about the ecological, environmental and traffic impacts of the Roade Bypass scheme and how, in the absence of detailed proposals in relation to access to severed land, this would impact on the Objector's farming business.
- 10.5.41. In response to the RR, the Applicant indicated that advanced discussions were taking place to ensure that issues with regards to the Objector's retained land holding were satisfactorily incorporated into a final land agreement [REP1-022]. Agreement has been reached and the objection was withdrawn towards the close of the Examination [AS-080].

The ExA's considerations

- 10.5.42. The Roade Bypass is a necessary and justified element of mitigation for the Proposed Development. All the plots for both CA and TP are

⁸¹ The relevant requirement in relation to this issue is Req 30 concerning footpath connection
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reasonably required to allow the Bypass to be constructed. The powers sought are therefore justified.

Crown Land and Special Land

- 10.5.43. The BoR [REP7-005] records that there is no Crown land or land the acquisition of which is subject to special parliamentary procedure, is special category land or is replacement land that is affected by either the proposed CA or TP. There have been no representations to indicate otherwise.

AVAILABILITY AND ADEQUACY OF FUNDS

- 10.5.44. The Applicant submitted a FS [APP-074] with the application. This states that the Applicant company is a special purpose vehicle set up to promote and develop the Northampton Gateway project. It is owned in equal shares by Roxhill Developments Holdings Limited (itself being a wholly-owned subsidiary of Roxhill Developments Group Limited) and SEGRO Properties Limited. It is entirely funded by its shareholders and has no external borrowings.
- 10.5.45. At paragraph 2.6 of the FS it is stated:
- "Costs incurred in the pursuance of the necessary consents are funded by the shareholders of the Applicant company and, should consent be achieved, it is anticipated that SEGRO will acquire the remaining shares in the Applicant making it a 100% subsidiary of SEGRO. SEGRO will then undertake to fund the Applicant to cover the cost of infrastructure and development necessary to bring the site through to fruition. This commercial relationship exactly replicates that of East Midlands Gateway (including its Rail Freight Terminal) which is currently under construction and funded by SEGRO, pursuant to the East Midlands Rail Freight Interchange and Highway Order 2016."*
- 10.5.46. The FS sets out the anticipated acquisition costs in respect of land and rights, a possible liability to pay claims under the Noise Insulation Regulations for road traffic noise, and the anticipated infrastructure, land and development costs. These respectively are potentially in the region of £5 million and £45,000.
- 10.5.47. The FS included accounts for the year ending March 2017. Following our querying at the second CAH whether more up-to-date accounts were publicly available, the Applicant submitted SEGRO's annual report and accounts for 2018 [REP7-021].
- 10.5.48. It is clear that the funding commitments for the Proposed Development are such that, if consented, there would be funds for the payment of compensation liabilities for CA and / or TP and for any blight claims. As is also clear from the above, the SoST has accepted the standing for funding purposes of the promoters in a previous NSIP decision (the East Midlands Gateway).

- 10.5.49. Furthermore, protection for any interests which are to be compulsorily acquired is provided by the inclusion within the recommended dDCO of Art 23, which requires security in respect of payment of compensation. This would ensure that no CA can be pursued until appropriate security is provided for the liabilities of the undertaker to pay compensation in respect of acquisition.

HUMAN RIGHTS ACT (1998) CONSIDERATIONS

- 10.5.50. Article 1 of the First Protocol (the right to peaceful enjoyment of property) is engaged. Having considered all representations, we consider that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest having regard to the public benefits of the Proposed Development.
- 10.5.51. Article 6 entitles APs to a fair and public hearing of their objections and is engaged. The provision of two CAHs and two OFHs, at which CA issues might also have been raised, has enabled any AP who wished to be heard to be heard fully, fairly and in public.
- 10.5.52. The ExA concludes that CA and TP for the Proposed Development can be delivered in a manner which is in full accord with all relevant human rights considerations.

10.6. CONCLUSIONS

- 10.6.1. The Applicant has undertaken an evaluation of siting alternatives for the Proposed Development, including for the Roade Bypass, and the ExA considers that, as far as CA is concerned, there are no alternatives considered which offer fewer disbenefits. The proposed use of all land affected has been reviewed and this justifies the requirements for the CA of the land. The temporary use of land and the CA of rights have been reviewed and the ExA agrees that the CA of rights and the TP of land for works related to the Proposed Development are also justified.
- 10.6.2. The land sought for the Proposed Development and subject to CA is land that is required for the purposes of s122(2) (a) and (b) of PA2008 and meets the tests set out in that section. It is land which is required for the development to which the development consent relates or is required to facilitate or is incidental to that development.
- 10.6.3. In considering the question of whether there is a compelling case in the public interest to acquire the land (s122(3) of PA2008), the ExA has taken into account the Applicant's case for CA and TP, as informed by its evidence on need and justification as set out in Chapter 4 above. The broad absence of concerns or objections from IPs or APs relevant to CA and / or TP has also been taken into account.
- 10.6.4. Individual cases where objections were lodged to CA / TP have been considered. The ExA is satisfied that in respect of these, and for all remaining land about which there have been no formal objections and in respect of which specific individual matters have not been identified for

detailed examination and reporting, the public benefit in delivering the Proposed Development would outweigh the private loss.

10.6.5. For the purposes of s122(3) of PA2008 the ExA concludes that:

- the NPSNN identifies a compelling need for an expanded network of SRFIs of the type that is the subject of this application;
- the development for which the land is sought would be in accordance with national policy as set out in NPSNN;
- there is a need to secure the land and rights required to deliver the Proposed Development and to construct it within a reasonable timeframe;
- the Proposed Development would represent a public benefit to be weighed in the balance;
- the private loss to those affected would be mitigated through the selection of the land and the minimisation of the extent of the rights and interests proposed to be acquired;
- the Applicant has explored reasonable alternatives to the CA of the rights and interests sought. However, for a project of this nature it is reasonable that the Applicant should retain CA and TP powers in a made Order as a guarantee against the possible failure of voluntary agreements which, if left unresolved, could cause substantial timescale and delivery cost over-runs that would not be in the public interest;
- there are no alternatives which ought to be preferred; and
- secure funding, including a mechanism to ensure this, is available to enable the payment of any necessary compensation.

10.6.6. The case for CA powers is required to be based on the case for the development overall. Chapter 9 reaches the conclusion that development consent should be granted. As set out above, the CA powers sought by the Applicant are justified and should be granted because there is a compelling case in the public interest for land and interests to be compulsorily acquired and therefore the proposal would comply with PA2008 s122(3).

10.6.7. Turning to PA2008 s123, for reasons set out at the outset of this Chapter, the condition in subsection (2) is met and therefore the ExA recommends that the CA powers sought should be granted.

10.6.8. For the same reasons and based on the same evidence, the ExA recommends that the TP powers sought are necessary and should be granted. It is not appropriate to apply TP powers prospectively emerging from the NPA2017 in this case, as by the closure of the Examination those powers had not yet commenced. APs were consulted and the project design developed on the basis of legislated TP procedure as it stood prior to the passage of NPA2017 and, at the time of the closure of this Examination, this was still in force.

10.6.9. The Applicant proposes to exclude the operation of the TP provisions of NPA2017 in the dDCO (Art 46(2)). This is an appropriate response to circumstances where the dDCO has been prepared and consulted upon

before a commencement order for the TP provisions of NPA2017 has been made.

11. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

11.1. INTRODUCTION

- 11.1.1. In this section we report on the Applicant's draft DCO (dDCO) and its section 106 agreement (s106), both draft and executed. There were three ISHs specifically on the dDCO; ISH1, ISH3 and ISH5. ISH1 was held immediately after the PM. They all touched also on the s106, ISH3 especially.
- 11.1.2. The dDCO as submitted (APP-070) was revised on 15 August 2018 [AS-005], almost eight weeks before the PM and ISH1. Examination of the dDCO therefore proceeded on the basis of that document. All prior representations which related to the original draft were taken into account. During the course of the Examination the dDCO was revised a further four times, the fourth [REP6-006] being the Applicant's final draft (Doc 3.1E).
- 11.1.3. The draft s106 was submitted at D1 on 6 November 2018 [REP1-003]. It underwent three revisions and the final executed version [REP6-048] in a combined document with the Confirmation and Compliance Document was submitted on 28 March 2019.
- 11.1.4. We issued three sets of questions, one each for ISH1, ISH3 and ISH5. In addition, for ISH5 we issued a commentary on the draft as it stood at that time. They were, respectively, Table 1 to Annex G of the Rule 6 letter (the Agenda for ISH1) [PD-005]; the schedule attached to the agenda for ISH3 [EV-009]; Commentary on the draft Development Consent Order (dDCO) and Schedule of Questions [PD-009].
- 11.1.5. In relation to the draft s106 we also issued a note on the draft Confirmation and Compliance document - circulated at ISH3 [EV-011] and a note of Points on the s106 agreement Document 6.4 - also circulated at ISH3 [EV-012]. This is a convenient point to add that at ISH3 we also issued the texts of two High Court judgments on s106 agreements; they are *Westminster v. Secretary of State and R(oao) Khodari v. Royal Borough of Kensington and Chelsea* referred to below in the section on the s106 agreement.

11.2. THE DCO AS APPLIED FOR

- 11.2.1. The ExA has considered the changes between the original and the revised version [AS-005] and is content both to accept them for examination and to recommend them. The ExA accepts the reasoning set out in the Changes Tracker [AS-020] accompanying AS-005. There is an immaterial exception in the case of the amendment to Req 26(1) where it is said there is a change but in fact no change is made. Some of the changes were themselves changed on further consideration during the Examination and unless they are expressly not recommended by us they are both accepted and recommended to the SoS.

- 11.2.2. The dDCO was accompanied by an Explanatory Memorandum (EM).

11.3. THE STRUCTURE OF THE DCO

- 11.3.1. The DCO has a straightforward structure. As a quick guide for parts frequently referred to; interpretation and definitions are in Art (Art) 2. The definition of the authorised development should, of course, be noted. The consent is at Art 3. Powers of acquisition begin at Art 23. There are miscellaneous provisions from Art 39 onwards. Governance of requirements and protective provisions is at Art 45. Arbitration is at Art 49.
- 11.3.2. In the schedules (Sch), Sch 1 lists the works. Requirements are at Sch 2. Protective provisions are at Sch 13. Sch 15 deals with the membership role and protocol of the sustainable transport group and the documents for certification are at Sch 16.
- 11.3.3. Provisions which particularly had issues or caused discussion included Art 4, Req 9, requirements with tailpieces, and Further works, protective provisions and the arrangements for applications pursuant to Requirements (Sch 2 Pt 2). The s106 also was the subject of consideration and change.

11.4. CHANGES DURING EXAMINATION

- 11.4.1. There were many changes and we report on the important ones. The Applicant made most of the changes we asked for and where it did not, it was justifiable.
- 11.4.2. The major issues which concerned us in relation to the dDCO were the inter-relation with the need for EIA and the justification for some of the DCO's provisions. We raised the EIA issues initially in Table 1 to Annex G of the Rule 6 letter ([PD-005], question ISH1-107). The resolution of this issue continued to require discussion at ISH3 and ISH5 and in documents we issued in preparation for those hearings. We were also concerned about the justification for some of the provisions of the dDCO and those were largely raised in the schedule attached to the agenda for ISH3 [EV-009].

EIA and the DCO

- 11.4.3. In relation to EIA we observed that the dDCO provided in a number of places for the authorised development to be altered. For example, Art 4 allowed changes within the parameters plans up to certain limits, but in excess of those limits where the deviation would not give rise to materially new or worse effects when compared against those assessed in the ES. There are also tailpieces, where changes are permitted with the consent of the relevant planning authority. Examples included Req 9 (allowing variations from matters of detailed design approved by the relevant planning authority) and Req 13 (components not to be commenced until details of earthworks have been approved by the relevant planning authority, but those details to be capable of alteration

with the RPA's agreement). Further works in Schedule 1 were permitted provided they did not give rise to materially new or worse effects than those assessed in the ES. There were numerous other examples, a number of which we listed in question ISH1-107.

- 11.4.4. We also noted that the tests used in the DCO varied. The principal tests were whether the change would *"give rise to any materially new or materially worse environmental effects in comparison with those assessed in the environmental statement"* and *"would result in significant environmental effects which have not been assessed in the environmental statement"*.
- 11.4.5. Where comparison with effects already assessed was to take place, the draft dDCO usually provided for the effects to be compared with the assessment in the ES. However, we observed that environmental assessment is a process, as the 2014 environmental impact assessment Directive 2014/52/EU emphasises. In addition, EIA does not assess effects, it assesses projects to see if they have likely significant effects.
- 11.4.6. The test in the environmental assessment Directive (2011/92/EU, as amended by 2014/52/EU) is whether the project is *"likely to have significant effects"*. We also noted that the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require EIA of some changes to an EIA development. This is achieved in Schedule 2, paragraph 13 which requires EIA where a change to, amongst other things, any schedule 2 development, must be subject to EIA where the change *"may have significant adverse effects on the environment"*. This was also noted by the Applicant who made submissions to us in its replies to ISH1-107A. It is a slightly different test but we note that it follows the Directive, Annex II paragraph 13.
- 11.4.7. We were also concerned by the case of *R. v. Cornwall CC ex p Hardy* Env L R 25; [2001] JPL 786. In that case the High Court quashed a planning permission for EIA development when conditions required bat surveys to be carried out after the grant of permission. Harrison J held that *"Having decided that those surveys should be carried out, the Planning Committee simply were not in a position to conclude that there were no significant nature conservation issues until they had the results of the surveys. The surveys may have revealed significant adverse effects on the bats or their resting places..."*. In the case of this application, Req 14 required further archaeological investigations and there seemed to us to be potential *Hardy* issues with other provisions and submissions in the ES. There were other places in the documentation, including the ES, where, it seemed to us, there was the potential for *ex p Hardy* to be engaged.
- 11.4.8. We therefore raised questions about (a) using only one test and what would be the appropriate test; (b) whether the proper way to address changes to the development pursuant to tailpieces should be to adopt the system for *"subsequent applications"* in the 2017 regulations; and (c) the compatibility of Req 14 with *ex parte Hardy* and whether there were any other provisions vulnerable to the decision in that case. We recognised

in relation to (b) that the subsequent applications provisions of the 2017 Regulations currently only apply to approvals needed before development is begun, so the DCO would need to apply them more widely. These questions or issues were the subject of submissions and iterative discussion with us, both oral in the hearings and written in the questions we asked, the commentary and the Applicant's material for all three ISHs dealing with the dDCO.

- 11.4.9. Before we turn to how the issue (a) and (b) were resolved, there are three observations which help in understanding the resolution.
- 11.4.10. First it is important to recognise that Art 4 of the DCO requires the authorised development to be carried out within the parameters shown on the parameters plan. It then allows some lateral and vertical deviations within certain limits (such as the limits of deviation). But those limits can be exceeded. As originally proposed by the Applicant in the DCO as applied for [APP-070], and in version 3.1A [AS-005] such a deviation would only be permitted if it was certified by the RPA as one which would *"not give rise to any materially new or materially worse environmental effects in comparison with those assessed in the environmental statement"*.
- 11.4.11. Secondly, some parts of the DCO contained tailpiece-type drafting allowing variations from what was approved by the RPA under submissions pursuant to the requirements. For example, Req 8 requires submission of various details of the development and Req 9 reads:
- "The details in 8(2)(a) to (u) can be subject to alteration by approval in writing from the relevant planning authority. The authorised development must be carried out in accordance with the details as approved in writing by the relevant planning authority from time to time."*
- 11.4.12. Another example is Req 13 which allows approved earthworks to be varied with the approval of the RPA.
- 11.4.13. Thirdly, Art 6 allows a wide range of maintenance works and the description of Further works (in Sch 1) gives a number of works such as estate roads, substations, swales, construction compounds, bunds, street-lighting and *"such other works as may be necessary or expedient for the purpose of or in connection with the construction of the authorised development permitted"*. These are not subject to variation with the approval of the RPA. They describe the development. But they are constrained by reference to environmental effects. In the case of both Art 6 and the Further works, Draft 3.1A of the dDCO made them subject to a proviso *"that such works do not give rise to any materially new or materially worse environmental effects than those assessed in the environmental statement"*.
- 11.4.14. Issues (a) and (b) were ultimately resolved by the Applicant in the following manner. First Art 4 was amended so that deviations are only permitted if they do not give rise to significant environmental effects. No

comparison is made with the ES submitted with the Application, and it is the deviation which is examined. That adopts the approach to variations in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. An application to the RPA has to be made to obtain confirmation of that. That application is treated as a "subsequent application" under those regulations, thus engaging an established environmental assessment process and screening.

- 11.4.15. Second, Art 45 has been amended. This originally provided that (a) an application for approval pursuant to requirements must not be given if it would permit development which would give rise to materially new or materially worse environmental effects in comparison with those assessed in the ES or any updated environmental information supplied under the 2017 EIA Regulations, and (b) similarly for applications to approve changes of such matters.
- 11.4.16. The amendment deletes the comparison and now requires that neither original approval nor any change may be given if it would permit a change to the development which would give rise to any significant adverse effects on the environment. This brings the provision into line with the approach to changes which is set out in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. In addition, the application is treated as a "subsequent application", thus engaging with an established environmental assessment process and screening. This enables tailpieces to remain.
- 11.4.17. In our view the DCO, version 3.1E, which contains these provisions, now properly addresses Issues (a) and (b).
- 11.4.18. Third, in relation to Art 6 - maintenance - and Further works a different approach was adopted by the Applicant. In these two cases the inclusion of a test as to whether or not there would be new or materially worse environmental effects when compared to those assessed by the ES was so as to limit the scope of the development they describe. It was not a question of a variation of what was permitted. The point remained, however, that the formula *"new or materially worse environmental effects when compared to those assessed by the environmental statement"* has difficulties.
- 11.4.19. An ES does not assess effects, it assesses a project. The ES will have identified effects to which mitigation will have been applied; the unmitigated effects should not be the benchmark in such circumstances. Other steps may have been taken to avoid unacceptable effects identified in the ES. The Applicant's solution is that the test should be that the maintenance works (in the case of Art 6) and Further works are not permitted if they give rise to any residual environmental effects not identified at the time the Order is made or which are in any updated ES supplied under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. In our view this addresses our concerns about the test, and it provides a limit to the scope of the development described in Art 6 and as Further works, a limit against which the RPAs can enforce.

- 11.4.20. *Ex parte Hardy*. We have summarised above the decision in this case. The context in which it was mainly discussed was Req 14 on archaeology. This, as originally drafted, was as follows:

"No component of the authorised development is to commence until the undertaker has commissioned a programme of further exploratory investigation which has been submitted to and approved in writing by the local planning authority. The exploratory investigation must be carried out in accordance with the approved programme and must be timed so that the results can inform the scope of the further archaeological mitigation measures, referred to in sub-paragraph (2)."

- 11.4.21. We raised the issue in our question ISH1:107C. There was discussion at ISH1 and the Applicant addressed the matter in its post-ISH1 hearing submissions [REP1-019] Appendix 1. It was the subject of extensive discussion at ISH3, in conjunction with discussion and submissions from the NCC (amongst others) on the adequacy of the archaeological investigations. We raised it in the Commentary for clarity. The Applicant's response to the Commentary [REP5-023] also addressed it.

- 11.4.22. The thrust of the Applicant's response was twofold. First, that *ex parte Hardy* can be distinguished because it concerned a European Protected Species (bats). The second was that the key question is whether or not the decision-maker has sufficient information before him- or herself on which to assess whether there are likely significant effects. In support of these propositions the Applicant drew on an extensive selection of cases. In particular we note *R (on the application of PPG11 Ltd) v Dorset County Council* [2003] EWHC 1311, *R v Rochdale Metropolitan Council (ex parte Milne)* [2001] Env LR 22 (especially paragraphs 114 and 132 of the judgment of Sullivan J).

- 11.4.23. We summarised our understanding of the position in the Commentary:

"...whether there is sufficient information at this stage to consider what are the likely significant effects, and to come to a conclusion on them, which is a judgment for the Examining Authority and Secretary of State to make. If there is, the later survey or investigative work can be required and carried out, provided its purpose is not to ascertain environmental effects. In the case of the archaeological Req 14, the purpose was specifically stated by [the Applicant's consultant,] Mr Smalley at ISH3 in answer to the ExA's questions that it was to define the areas in which any further recording would be required and not to identify likely significant effects. This is largely derived from ex p Milne, the second Rochdale case."

- 11.4.24. The Applicant agreed this was an accurate summary of its submissions. Having considered its submissions (and those of NCC and others who contributed) and the case law, we agree with the Applicant's position. Having heard the submissions of the Applicant, NCC and RC on the question of the sufficiency of the archaeological investigations carried out thus far, we are content that there is, on the facts, sufficient information

at this stage and that the Applicant's archaeological investigations are adequate and meet the tests in the NPSNN, paragraphs 5.127 and 5.142.

- 11.4.25. In the light of the discussions, we asked the Applicant if it wished to amend Req 14 to make it clear that its purpose was not to ascertain environmental effects but to inform the archaeological mitigation measures. Whilst the Applicant was content with the requirement as drafted it has included some wording in case the ExA considered it necessary. It is desirable that requirements be clear and we take the view that these additional words are helpful and we have thus included them in the recommended dDCO.
- 11.4.26. Req 14 was not the only provision where we were concerned in relation to *ex parte Hardy*, as we explain at paragraph 11.4.7 above. In the light of the discussions and clarifications during the Examination, and also answers to our written questions and other submissions, we are content with the position on those other matters and there is no need to amend the dDCO further.

Changes as a result of changes to the draft s106 agreement

- 11.4.27. A number of additions were made to the dDCO as a result of difficulties with the Applicant's original draft s106 agreement. The difficulties were discussed primarily at ISH3 and we also commented in [EV-012]. It is therefore convenient to look at the s106 agreement at this point.
- 11.4.28. Section 106 of the TCPA 1990 provides a mechanism to ensure that certain promises bind not only the person making them, but also persons deriving title from that person – purchasers, lessees and so on. Lawyers (and many laymen) call this 'running with the land'. (Under ordinary land law this would not happen. We put this at ISH3, primarily to the Applicant and RPAs, but of course others were also present. There was no disagreement with this summary of land law.) This important mechanism is the effect of s106(3). However, this only applies to certain types of promise, namely those which are 'planning obligations'. (There are some procedural requirements as well but those were not the problem.) A 'planning obligation' is a promise which falls within s106(1) of the TCPA. There are four categories:
- a. a promise restricting the development or use of land in any specified way;
 - b. a promise requiring specified operations or activities to be carried out in, on over or under the land;
 - c. a promise requiring land to be used in any specified way and
 - d. a promise to pay money to the planning authority on a specified date or dates.
- 11.4.29. The s106 agreement itself is not a planning obligation. It is the instrument containing planning obligations.

- 11.4.30. There have been a number of cases on the effect of failures to comply with s106. For example, in *Westminster City Council v. Secretary of State* [2013] EWHC 690, which we put before ISH3, a promise not to apply for a parking permit was scrutinised. The Court confirmed that it did not fall within s106(1) and was therefore not a planning obligation. The result was that the planning inspector's decision to grant planning permission was quashed as the promise amounted only to a personal obligation, did not run with the land and should not have been taken into account. We also put the case of *R (oao Khodari) v. Royal Borough of Kensington and Chelsea* [2017] EWCA (Civ) 333 before ISH3. In that case the Court of Appeal approved the reasoning in the Westminster case. There are other cases as we explained orally at ISH3.
- 11.4.31. Therefore, because it is only planning obligations which run with the land, it is vital that the promises fall within one (or more) of categories (a) – (d) in s106(1). If they do not, then not only will they not bind persons deriving title, such as warehouse operators in this case, or any person to whom the landowners may transfer or lease the land, but also the planning permission which the s106 agreement is seeking to regulate is at risk of being quashed.
- 11.4.32. A number of promises in the Applicant's first draft of the s106 Agreement [REP1-003] did not meet any of those tests. The Applicant's solution was to move the offending parts into the DCO. We have set out the above matters so that it is clear why provisions now in the Requirements have been moved there.
- 11.4.33. We are satisfied that the remaining parts of the s106 agreement meet the tests in s106(1). There is a separate issue as to whether they can all be taken into account which we address below.
- 11.4.34. We therefore turn to consider those parts of the DCO which derive from the surgery effected by the Applicant's solution. The topics removed from the s106 were:
- a. The employment scheme
 - b. The community liaison group
 - c. The establishment of the sustainable transport working group
 - d. The appointment of the Framework Travel Plan co-ordinator administrator
 - e. Occupier travel plans
 - f. The Public Transport Strategy
 - g. HGV monitoring – the scheme to ensure HGVs do not travel south down the A508.
- 11.4.35. The employment scheme is moved to Req 28, which now requires an employment scheme for the construction of the authorised development to be submitted to and approved by the RPA prior to commencement of construction. Similar schemes must be submitted and approved on a warehouse by warehouse basis prior to first occupation of the relevant warehouse and on changes of occupation. The approved schemes are to be implemented and complied with.

- 11.4.36. The community liaison group is moved to Req 2.9. It must be established by the undertaker prior to the commencement of the authorised development. Its function is to facilitate liaison between various bodies in relation to the construction and operation of the authorised development and parties who must be given an opportunity to participate in it are set out. It is to meet in accordance with a protocol to be agreed with the RPAs prior to commencement and shall continue to meet until the expiry of five years from full occupation of the authorised development unless otherwise agreed with the RPAs.
- 11.4.37. By Req 4(6) the sustainable transport working group (STWG) is to be established prior to the commencement of construction. It is to discharge the role given to it in Sch15, which also sets out its constitution. This includes functions in relation to the Framework Travel Plan (FTP) and Public Transport Strategy (PTS). The provisions for its duration are as for the community liaison group.
- 11.4.38. One of the functions of the STWG is to oversee the work of the travel plan administrator who is to be appointed in accordance with the provisions of the travel plan.
- 11.4.39. The s106 had, in relation to occupier travel plans, included an obligation to include provisions in leases of warehouses requiring a travel plan to be submitted to the County Council as required by the FTP. This is not carried into the requirements. However, we consider it to be unnecessary as the provisions of Req 4 had always obliged occupiers of warehouses to submit specific travel plans and to comply with the approved plan.
- 11.4.40. The public transport strategy is now dealt with in Req 4(3) by a straightforward imperative to implement and comply with it. The STWG has functions in relation to its oversight.
- 11.4.41. The HGV monitoring scheme moves to Req 4(9) which requires it to be approved by the local highway authority prior to occupation of any warehouse. The system must be installed prior to occupation of any warehouse. In the same way as when it was part of the s106 agreement, the scheme to be submitted to the local highway authority is to include details of enforcement.
- 11.4.42. There remain substantial parts of the s106 agreement.
- 11.4.43. The obligations in the s106 agreement are, with some small technical exceptions, all conditional on the DCO coming into force and the Implementation of the Authorised Development. Implementation means the carrying out of a material operation within the meaning of s56(2) and (4) of the TCPA 1990 and is subject to a not-unusual list of exceptions for certain preparatory works.
- 11.4.44. A Community Fund Contribution of £300,000 is payable by the landowners to the District Council in two instalments. It is to be applied in accordance with the obligations of the District Council. These are to

use it, minus up to 5% administrative costs, for Qualifying Projects, having regard to the wishes of the Community Liaison Group. Qualifying Projects are projects within the administrative areas of the Parishes to improve the physical realm, enhance nature conservation interest or improve the physical environment of the villages in the area of the Parishes. Projects must be considered by the District Council to be directly related to the authorised development and likely to assist in addressing any impacts arising from it. The Parishes are the civil parishes of Blisworth, Courteenhall, Milton Malsor and Roade. Monies not spent or irrevocably committed within five years of the final payment are to be returned with simple interest at Bank of England base rate.

- 11.4.45. Monies from the Bus Services Fund of £1.1 million (indexed) are to be paid to the County Council when directed by the STWG to assist the implementation of the PTS until the sooner of exhaustion of the fund or five years from first Occupation of the final Northampton Gateway Building (basically buildings with a warehouse and distribution use pursuant to the DCO).
- 11.4.46. There is a Travel Plan Monitoring Fee of £3,000 to be paid to the County within 28 days of Implementation and used only for monitoring compliance with the Travel Plan.
- 11.4.47. A Highway Capacity Improvement Contribution of £650,000, indexed, is to be paid on the date the entire length of the Roade Bypass is opened to public traffic. It is to be used by the County for improving capacity of the Queen Eleanor Interchange, and the A5076 Mereway and A5076 Danes Camp Way between the A45 and A5123 and for no other purpose.
- 11.4.48. A Knock Lane / Blisworth Road Maintenance Fund of £50,000 is to be paid to the County on the date the entire length of the Roade Bypass is opened to public traffic and is to be used by the County for maintenance and remedial works on those roads required due to increased use as a result of the Authorised Development.
- 11.4.49. A Weight Limit Signs contribution of £200,000 is to be paid within 28 days of Implementation and used for the provision of HGV weight limit signs signalling the limits imposed by the dDCO.
- 11.4.50. An Air Quality Contribution of £250,000, indexed, is to be paid in four instalments beginning with commencement of construction of an NG Building. This latter contribution is then to be paid by the County to Northampton Borough Council or a successor to its functions. The Applicant explained that the reason for this is that to be a planning obligation the promise must be to the planning authority for the area within which the landowner is interested in the land, see s106(1); the Application site is not in the area of the Borough, so the County (which is a planning authority for the purposes of s106(1)) is to receive the money and thereafter act as a conduit.
- 11.4.51. The Air Quality Contribution is to be used for the Air Quality Measures – measures to further the aims of the Borough’s Low Emissions Strategy,

such as a Clean Air Zone Feasibility Study, implementation of the Northampton Electric Vehicle Plan, Provision of Cycling Hubs and development of Ultra-Low Emission Hubs Corridors. The Borough is required to confirm the funds would be so used as a pre-condition for receiving them and any funds unused after 10 years are to be returned via the County to the originator.

- 11.4.52. The s106 agreement was executed and delivered on 28 March 2019. We had asked the Applicant at question ISH1:109, issued with the Rule 6 letter, to note that the we would require confirmation from solicitors that the s106 agreement was lawfully executed. The need for this flows from the difficulty that the legal presumptions of due execution of documents in general apply only where there is a sale and purchase. They also arise out of the need to ensure that all those persons necessary to be parties to the s106 agreement so that it is complied with throughout the construction and use of the development are actually made parties to the document and that there are no other parties who should be joined in.
- 11.4.53. NCC and SNC were also put on notice that we would expect them to carry out proper title investigation (question ISH1:110). We reminded the two authorities who are parties to the s106 at ISH5 of the need for them to ensure they were satisfied on title and to carry out Land Registry searches immediately before completion, in view of the fact that searches with priority would not be effective as there is no purchaser. The representatives (legal and otherwise) of the two authorities and the solicitors for the Applicant understood and accepted our approach.
- 11.4.54. The difficulty of being sure that documents have been lawfully executed applies in corporate transactions involving companies registered abroad to which therefore English legal presumptions of due execution do not apply. Also, solicitors practising in England and Wales will usually not know the requirements of the foreign legal systems. The practice normally adopted is to obtain an opinion letter from a reputable firm of lawyers in the foreign jurisdiction to confirm proper execution by the foreign company. It is also common in corporate transactions involving only companies registered in England and Wales for board minutes authorising execution of the documents to be produced and the identity of directors executing on behalf of the companies to be checked and other steps taken to ensure proper execution has taken place.
- 11.4.55. The Confirmation and Compliance Document produced by the Applicant [REP6-048] therefore was adapted from the foreign lawyer opinion letter approach. In addition to confirming proper execution by the landowners (who are natural persons) and the Applicant (a company incorporated in England and Wales) it also contains confirmation that the appropriate land is bound, and that there are no other persons who need to be made parties to ensure that the planning obligations are complied with during construction, occupation and use. The document is for the benefit of the SoS, County and South Northamptonshire Council (NBC not being a party to the document for reasons we explain below -see the paragraphs on the Air Quality Contribution) and their successors. It is given and signed by Messrs Eversheds Sutherland (International) LLP.

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- 11.4.56. We turn now to consider whether the planning obligations which remain in the s106 agreement can be taken into account. The policy test is set out at paragraph 4.10 of the NPSNN. It is that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind to the development.
- 11.4.57. At D5 the Applicant submitted a Draft s106 Confirmation and Compliance document [REP5-018]. This contains reasons and justification for the various obligations. As we explain below in relation to the Community Fund, these were not included in the final Confirmation and Compliance Document but they hold good. It is brief and we quote relevant extracts of what it said on these obligations, beginning with the Bus Services Fund.
- 11.4.58. The Bus Services Fund: *"The Bus Services Fund complies with the NPSNN because it provides funding for Bus Services which are considered necessary to serve the development as described in the public transport strategy contained in Appendix 2 of the Transport Assessment contained in Appendix 2.1 of the Environmental Statement."* We agree with this and accept that the fund meets the test.
- 11.4.59. Highway Capacity Improvement Contribution: *"These monies are required to be paid to ensure that the development makes an appropriate contribution to improvement works along the A5076 corridor and A45 Queen Eleanor junction, as explained in the Transport Assessment"*. We agree.
- 11.4.60. Knock Lane / Blisworth Road Maintenance Fund: *"These monies are required to be paid to ensure that maintenance or other remedial works to Knock Lane/Blisworth Road arising as a result of the development can be carried out, as explained in the Transport Assessment."* We agree.
- 11.4.61. Weight Limit Signs Contribution: *"These monies are required to be paid to fund the signs necessary to enforce the weight limits imposed by Art9 of the DCO."* We agree.
- 11.4.62. Air Quality Contribution:
- "These monies are required to be paid to enable the Borough Council to carry out Air Quality measures (as defined in the agreement). Despite the overarching objective of taking freight off the road and onto rail the Borough Council feel that in the short term the development may add traffic to areas where they have air quality concerns. Although the development does not give rise to any significant adverse air quality impacts, there will be some trip increases within Northampton AQMA arising from the development. The impacts are small and will not affect the East Midlands Zone coming into compliance, but the contribution made will assist the Borough Council in the implementation of its low emissions strategy."*

- 11.4.63. We would add that, as the Applicant points out at paragraph 9.6.10 in the Air Quality Chapter of the ES [REP5-021] p119 ff, there are impacts of significance at AQMA No 4. There are three receptors where in 2021 there would be moderate impacts and one with slight impacts. Paragraph 9.6.10 indicates that it is in that context that a contribution to enable delivery of new electric vehicle charging points and other low emission initiatives was under discussion.
- 11.4.64. The Air Quality Measures for which the contribution can be used are measures to further the aims of NBC's low emissions strategy, clean air zone feasibility study, implementing the Northampton Electric Vehicle Plan, provision of cycling hubs and development of ultra-low emission hubs corridors. These reasons, individually and collectively, demonstrate that the tests for obligations in the NPSNN are met. Paragraph 9.2.25 of the Air Quality Chapter also points out that the Low Emissions Strategy of NBC is aimed at helping the council to deliver air quality objectives in line with NBC's local plan policies.
- 11.4.65. We turn next to the Community Fund. We asked whether the Community Fund could be taken into account and drew attention to the case of *Forest of Dean DC v. Resilient Energy and Wright [2017] EWCA Civ 2102* which had considered a payment to a community on a wind farm development which was the subject of an application under the TCPA 1990. We received submissions from both RC and the Applicant, and from others including SNC. The question of whether or not the fund met the policy tests in NPSNN paragraph 4.10 was also in issue. It was discussed at ISH3 and ISH5.
- 11.4.66. To summarise RC's submissions which are set out in its post-ISH3 submissions [REP4-020] and its post-ISH5 submissions [REP6-018], s104(2)(d) requires the SoS to take into account matters which are both important and relevant. That is different from the obligation in s70 of the TCPA 1990 to have regard to material considerations. The policy test in paragraph 4.10 must be followed because the application must be decided in accordance with the NPS – s104(3) - unless one of the exceptions applies.
- 11.4.67. In its post-ISH5 submissions, RC went on to assert that to be 'important and relevant' a matter must also be a material consideration using the same tests as under the TCPA 1990. There is in fact no linkage between the planning impacts of the scheme and the Community Fund's role in addressing those impacts. Thus, it cannot be a material consideration. There are no identified projects now against which the tests of law and policy can be applied. The ExA and SoS must decide now if the fund complies with the tests. The Applicant's approach is the same as if the s106 agreement were simply to set out the tests in paragraph 4.10 of the NPSNN and left them to be applied at a later date.

- 11.4.68. The Applicant's position is set out at paragraph 7.1 of its post-ISH5 submission [REP6-012] and the revised s106 Compliance and Confirmation Document [REP5-018] to which we were referred⁸².
- 11.4.69. To summarise, the Applicant's position is that the Community Fund complies with s106. The issues are whether or not regard should be had to it, or any weight given to it, and whether it complies with paragraph 4.10 of the NPSNN. In [REP5-018] – the draft Confirmation and Compliance Document – the Applicant explains that it considers the Community Fund does comply as the funds can only be spent on projects which are considered to be directly related to the Proposed Development and are likely to address impacts arising from the Proposed Development. It is a mechanism to address unforeseen impacts; *"Whilst the impact of a large scheme on surrounding communities can be assessed at the time of the application, the actual impact cannot be known until the development occurs"*.
- 11.4.70. The Applicant submitted that the case law on material considerations is not relevant as 'material considerations' is not a concept applied to the PA2008; s104 contains the relevant tests. Thus *Wright v. Forest of Dean* is not relevant.
- 11.4.71. In the draft Confirmation and Compliance Document the Applicant asks the SoS, in the event that they have any doubt as to the compliance with paragraph 4.10, not to give the Community Fund any weight. In its post-ISH5 [REP6-012] submission at paragraph 7.4 the Applicant submitted as follows:
- "The Applicant acknowledged in the hearing that, were the Applicant to be asked whether the Community Fund was necessary to render the application acceptable, the answer would be that it is not necessary"*.
- 11.4.72. It continued at paragraphs 7.5 and 7.6, urging both the SoS and the ExA, that in the event either of them concludes therefore that the Community Fund does not comply with paragraph 4.10 or has any doubt on that matter, then the ExA or the SoS, as applicable, should not place any weight on it in arriving at their recommendation or conclusion (as the case may be) and should say explicitly that no weight has been placed on it.
- 11.4.73. In its post-ISH3 submission [REP4-015] SNC stated:
- "The Council welcomes the commitment provided. It does however have a concern that as currently set out the relevance to the proposed development is not clearly established and thus the provision would more appropriately be established by the applicant through an arrangement unrelated to the application determination process."*

⁸² We recognise that [REP5-018] was a draft of the Confirmation and Compliance document and that the passages in question do not appear in the final version. But that is in common with other similar explanatory material in [REP5-018] and the Applicant specifically relied on [REP5-018] in its [REP6-012] submission Northampton Gateway SRFI TR050006
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- 11.4.74. Our view is that the drafting of the obligation in the s106 agreement to pay the Community Fund meets the tests for a valid planning obligation in s106 of the TCPA 1990. That is also the Applicant's submission. We see no reason why in law the District Council should not be able to enforce it. However, that does not mean to say that it can properly be taken into account. Other tests must be met for that.
- 11.4.75. Paragraph 4.10 is one of those tests. In our view the Community Fund does not meet the criterion of necessity in paragraph 4.10. No impact is identified to which it is to relate. Therefore, it is not necessary. Furthermore, if the impact cannot be identified it is also impossible to tell whether the Fund is adequate to address it and therefore it is impossible to apply the test of 'fair and reasonable relation in scale and kind' in paragraph 4.10. It fails at least two of the paragraph 4.10 tests. We have to apply the tests now, on the evidence before us. There is, self-evidently from the terms of the s106 agreement, no such evidence. Nor is there evidence elsewhere. In addition, the Applicant has itself agreed in its post-ISH5 submission [REP6-012] that the necessity test is not met. We do not place any reliance on the Community Fund and accord it no weight whatsoever. We strongly recommend the SoS to do the same.
- 11.4.76. Having come to that conclusion, it is unnecessary for us to come to any conclusion in relation to the Community Fund on the submissions about material considerations.
- 11.4.77. Finally, we turn to the Travel Plan Monitoring Fee. The Draft s106 Confirmation and Compliance document [REP5-018] said of this: "*The fee is legitimately required by NCC to enable them to monitor the framework travel plan required for the development*". There was little discussion of this provision during the Examination, but we note that there has been litigation over the acceptability of monitoring fees in the context of Reg 122 of the Community Infrastructure Levy Regulations 2010/948⁸³. Whilst (as was established in ISH1) Reg 122 does not apply to NSIPs, the necessity test appears in Reg 122 in the same terms as in paragraph 4.10 of the NPSNN. Can it therefore be taken into account in this case? In the Oxfordshire case we have footnoted, the SoS, successfully defending his decision that the fee did not meet the necessity test, did concede that a monitoring fee might meet the test but that such cases were likely to be exceptional. In fact paragraph 47 of the judgment records an example given of a very large development, such as a nationally significant piece of transport infrastructure, perhaps in a small authority, which might require exceptional recruitment to manage obligations.
- 11.4.78. A case might therefore be made for this payment to be necessary. However little evidence of this, if any, was put before us. We do note that NCC would be required to participate in the workings of the

⁸³ Oxfordshire County Council v. Secretary of State [2015] EWHC 186 (Admin) where a planning inspector's decision that a monitoring fee did not meet the necessity test in Reg 122 was upheld by the Court
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Sustainable Transport Working Group which include overseeing the delivery of the travel plan (see Sch 15 of the DCO and Req 4(2)). The availability of the payment has not been taken into account by us in deciding whether or not to recommend that the DCO be made, and the safe course in the absence of specific evidence that the sum is necessary to make the development acceptable in planning terms is to accept that it is not. As with the Community Fund, this does not affect the legal validity of the obligation to make the payment and it would continue to be recoverable by NCC. We recommend that the SofS disregards it and says so in his decision letter.

Other changes during the Examination

- 11.4.79. The Applicant's final dDCO [REP6-006] incorporates the changes agreed with various interested parties by the time of its submission. As we say above, there were many changes made between version 3.1A and version 3.1E, the final draft. We have reviewed all the changes, many of which respond to concerns and questions we raised. Whilst no document directly comparing the final draft against the original application draft was submitted to the Examination, the track changes version accompanying each version are available and we have made our own comparison. Many of the changes are small typographical issues, or clarifications. Others are of substance. Whatever their nature the changes are acceptable and raise no further examination issues. We think it is useful to refer to some of the changes however.
- 11.4.80. The definition of 'maintenance' was cut down to exclude removal, reconstruction, decommissioning, demolition and replacement, as these were too wide in scope and the environmental effects of decommissioning had not been fully assessed.
- 11.4.81. Art 49, Arbitration, as originally drafted would have required all disputes to be referred to arbitration. This would have included disputes over compensation for compulsory acquisition and enforcement and was based on the wording in the Model Provisions. It has been amended so as to exclude those and to specify particular types of arbitrator in certain cases (eg surveyors for matters pertaining to land and surveying).
- 11.4.82. To address the need for EIA where changes occur, particularly under tailpieces, Arts 4 and 45 were changed significantly, as noted above.

Requirements 3(3) and 3(4)

- 11.4.83. The Requirements are to be found at Schedule 2. Before we embark on consideration of Req 3(3) and Req 3(4) we record that we are satisfied with the propriety and adequacy of the other requirements, save where we have expressed a contrary view.
- 11.4.84. Req 3(3) requires the rail terminal to be constructed and available before the occupation of any of the warehousing. The final form as submitted by the Applicant in its document 3.1E [REP6-005] is as follows:

(3) A rail terminal capable of handling at least four goods trains per day, including 775 metre length trains, must be constructed and available for use prior to the occupation of any of the warehousing unless the timing of the provision of the rail terminal is otherwise agreed in writing with the relevant planning authority but in any event the rail terminal must be available for use prior to the occupation of more than 140,400 square metres of warehousing.

11.4.85. As originally drafted, this read:

(3) A rail terminal capable of handling at least four goods trains per day must be constructed and available for use prior to the occupation of any of the rail served warehousing unless otherwise agreed in writing with the relevant planning authority.

11.4.86. The relevant changes for this part of the Report are the addition of the words underlined. The words "*the timing of the provision of the rail terminal is*" were added at D2 (20 November 2018, prior to ISH3) and the words "*but in any event the rail terminal must be available for use prior to the occupation of more than 140,400 square metres of warehousing*" were added at D6 (19 March 2019), after ISH5.

11.4.87. At ISH1 RC made submissions about the original draft which it set out in its post-hearing submission [REP1-028]. It submitted that Req 3(3) would enable the Applicant to construct road-served warehousing only and therefore would be something which is not an NSIP at all. Within this RC made two points. First that the tailpiece allows – without recourse to the SoS – for the scheme to be built without the rail terminal which it said would be unlawful; PA2008 may not be used to grant a DCO which contains within it the capacity to approve the carrying out of a development which would neither be an NSIP nor associated development. Secondly, it was submitted that the original form of Req 3(3) raised a question of compliance with paragraph 4.88 of the NPSNN.

11.4.88. In response [REP2-011], the Applicant amended the DCO by the addition of the references to timing, underlined above.

11.4.89. We asked in the Commentary on the dDCO [PD-009] the following question:

To be an SRFI and therefore an NSIP the project must be capable of handling at least four goods trains per day. Please comment on why this wording is justified (or not).

11.4.90. The Applicant replied:

"There is nothing in the NPSNN which requires that the provision of the rail terminal be in place prior to any other part of the development. Indeed, until there is both the rail terminal and warehousing the development does not meet the criteria in s.26 of the Planning Act 2008. The NSIP is the combination of a rail terminal and warehousing, not the rail terminal alone. Nor does the NPSNN prescribe the order in which the elements should be provided other than to say in the guidance that "the

initial stages of the development must provide an operational rail network”.

11.4.91. The matter was discussed at ISH5.

11.4.92. At this point it is necessary to set out some of the relevant wording of the NPSNN and s26 of PA2008, beginning with the NPSNN.

"4.83 Rail freight interchanges are not only locations for freight access to the railway but also locations for businesses, capable now or in the future, of supporting their commercial activities by rail. Therefore, from the outset, a rail freight interchange (RFI) should be developed in a form that can accommodate both rail and non-rail activities.

4.88 Applications for a proposed SRFI should provide for a number of rail connected or rail accessible buildings for initial take up, plus rail infrastructure to allow more extensive rail connection within the site in the longer term. The initial stages of the development must provide an operational rail network connection and areas for intermodal handling and container storage. It is not essential for all buildings on the site to be rail connected from the outset, but a significant element should be.

4.89 As a minimum, a SRFI should be capable of handling four trains per day and, where possible, be capable of increasing the number of trains handled. SRFIs should, where possible, have the capability to handle 775 metre trains with appropriately configured on-site infrastructure and layout. This should seek to minimise the need for on-site rail shunting and provide for a configuration which, ideally, will allow main line access for trains from either direction.”

11.4.93. Section 26 of PA2008 commences:

The construction of a rail freight interchange is within section 14(1)(l) only if (when constructed)

each of the conditions in subsections (3) to (7) is expected to be met in relation to it.

11.4.94. Sub-sections (3) – (7) include amongst other things the requirements for the ability to handle at least four goods trains per day and to include warehouses to which goods can be delivered from the railway network either directly or by means of another form of transport. We also draw attention to the report of the ExA on the East Midlands SRFI, paragraphs 4.2.14 to 4.2.28, and 4.2.57 to 4.2.62 and 5.1.5; and to the decision of the SoS on that application, dated 12 January 2016. Although the ExA’s report in that case was not put in as an examination document it was referred to by RC in its post-ISH5 submission [REP6-018] and the SoS’s decision letter was included in the Applicant’s document ‘Responses to other parties’ D2 submissions’ [REP3-009].

11.4.95. It is also useful to note the Applicant’s response to ExQ1.0.5 – [REP1-020]. The question asked about the proportion of rail-connected warehousing which in an earlier iteration of the scheme had been greater. The reply is as follows:

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Due to the relative levels between the Zone B reception sidings and Zone A1, it was considered impractical to provide direct rail connections to Zone A1. Further, and having regard to the NPSNN, particularly paragraphs 4.83 and 4.88, it is not considered to be necessary in market terms to provide all development zones with the ability to be directly rail connected. All warehousing on the site will be directly rail served. The issue of the extent of directly rail connected warehousing was specifically considered during the Examination and determination of the East Midlands Gateway application. On the East Midlands Gateway scheme none of the warehouse units have a direct rail connection, instead they will be served by the rail terminal with connections between the terminal and warehousing being undertaken by road within the scheme. The Secretary of State's conclusions on this matter are set out at Paragraphs 18 and 19 of his decision letter, where he concludes that the East Midlands Gateway application is acceptable notwithstanding there are no directly rail connected warehousing.

- 11.4.96. We note also that the parameters plan [REP5-010] for the latest version (though earlier versions are consistent) shows rail corridors within the warehouse development zones A2a, A2b, A3 and A4.

- 11.4.97. At ISH5, RC rehearsed its ISH1 submissions and, in addition, submitted that what is consented must be an NSIP within the remit of the NPSNN, which, it was said, included the question of timing. On the wording of the requirement (which at that time was without the words "*but in any event the rail terminal must be available for use prior to the occupation of more than 140,400 square metres of warehousing*") RC submitted that the timing could be changed by the RPA so that the scheme was no longer an NSIP.

- 11.4.98. For the Applicant, at ISH5 it was noted that a combination of rail and warehousing has to be provided. Attention was drawn to the words limiting the tailpiece to timing, and submitted that RC's approach would mean that if one were to remove the tailpiece then the requirement would still have the problem about which RC complained, namely it would allow for a rail terminal to be constructed and opened before any warehousing which on RC's submission would not be an NSIP and therefore not permissible. There is nothing, the Applicant submitted, which says what must come first. If that was unacceptable, it was suggested adopting the position which was approved by the SoS at East Midlands Gateway. This – we are told in [REP7-006] – the Applicant's response to the RC D6 submission – is "*an all but, near identical tailpiece*". The Applicant suggested an absolute limit of 140,400m² on the amount of warehouse space which could be occupied prior to the provision of the rail terminal; this is the drafting in the Applicant's proposed Req 3(3).

- 11.4.99. RC disagreed with this approach. The question was what was meant in the NPS paragraphs 4.83 and 4.88 by the words 'outset' and 'initial stages'? That was a combination of terms which made it "pretty clear" that the words are intended to guard against the temptation of not

building the expensive rail terminal. This was, it was submitted, to stop the system from being “used”.

- 11.4.100. On the question of the meaning of the words ‘initial stages’ the Applicant submitted that the definitive view is the SoS’s view in the East Midlands Gateway decision that in that case up to 260,000 m² is the initial stages.
- 11.4.101. We learn from the final version of the EM [REP6-007] that the total floorspace at East Midlands Gateway was 555,476 m² and thus that ‘initial stages’ was up to 46.8% of the total. We also note from that document that the Daventry International Rail Freight Interchange Alteration Order 2014, which pre-dated the NPSNN, authorises a new replacement rail terminal and a substantial amount of warehousing. The amount of floorspace permitted to be occupied in advance of the rail terminal in that case was 153,290m² (out of 731,000m²) (21%). At the Proposed Development, 140,400 m² is 30% of the floorspace excluding mezzanines and 22.5% of the total floorspace.
- 11.4.102. The exchanges continued in the post-ISH5 submissions from both the Applicant and RC. RC submitted [REP6-018] that the effect of the tailpiece even with an express reference to timing (but in its pre-absolute limit of 140,000 m² form) is to authorise a development that would not comprise an NSIP; and that the absolute limit approach does not assist because the approval of such an approach in the East Midlands Gateway DCO by the SoS does not make it lawful, and its lawfulness was not examined by the courts. Neither the ExA nor the SoS is bound to accept that the way the SoS has interpreted the words of paragraphs 4.88 and 4.89 is correct. The ExA and the SoS did not agree and the ExA recommended that the Order be not made; the SoS departed from the ordinary and natural meaning of the words to justify his decision; he relied on commercial factors to give words the meaning he did, rather than as a basis for justifying a departure from policy; and a decision in this case which sought to rely on the East Midlands Gateway decision would be fraught with unnecessary legal risk.
- 11.4.103. The Applicant’s post-ISH5 submission drew attention to the 140,400 m² absolute limit on what could be occupied prior to the provision of the rail terminal and reiterated that the only available interpretation of ‘initial stages’ is that in the East Midlands Gateway decision of the SoS.
- 11.4.104. In reply to RC’s submissions [REP6-018] summarised above, the Applicant [REP7-006] drew attention to the words of ss14 and 28 of PA2008 for the definition of NSIP and said:

"As such, there can be no sensible contention that the Requirement 3(3) has the effect of meaning that Northampton Gateway is 'not an NSIP' for the purposes of the 2008 Act. Rail Central is the only party which has made a suggestion to this effect, and its approach has no regard to the language of the statute. The inclusion of, an all but, identical tailpiece in the East Midlands Gateway DCO did not cause the Secretary of State to conclude that the mechanism had the effect of rendering that Strategic Rail Freight Interchange not an 'NSIP'."

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11.4.105. On the policy in the NPSNN paragraphs 4.88 and 4.89 the Applicant wrote:

"The relevant terminology in these paragraphs of the NPS is not prescriptive in the manner that Rail Central seeks to characterise it. Crucially, these paragraphs were considered by the Secretary of State when he determined to grant a DCO in respect of the East Midlands Gateway SRFI ('EMG'). Indeed, they were expressly analysed by the Secretary of State in his decision letter determining to grant the Order."

11.4.106. The Applicant said it relied on the SoS's reasoning as a cogent, practical and correct interpretation of the relevant policy.

11.4.107. In response to RC's suggestion that the SoS's approach in that case was unlawful the Applicant replied:

"Policy in the NPSNN must be applied holistically; that is, not looking at individual sentences in isolation but instead looking at relevant sections of policy in the round. Policy should also be applied practically, with an eye to reality rather than as a theoretical exercise. Both the Secretary of State's understanding of his policy, and his application of that policy (which was not challenged in any legal proceedings) in EMG are sound. The ExA should rely upon it in considering Rail Central's ill-founded complaints regarding the tailpiece in Requirement 3(3)."

11.4.108. It seems to us that the following issues arise in relation to Req 3(3) and the meaning of the policy.

- Will the SRFI be developed so that at the outset the form can accommodate both rail and non-rail activities (para 4.83 of the NPSNN)?
- Will the SRFI provide for a number of rail connected / accessible buildings "for initial take up" (para 4.88)?
- Will the initial stages provide an operational rail network (paragraph 4.88)?
- Will there be a "significant element of rail-connected buildings" from the outset (para 4.88, last sentence)?
- Will there be the capability of handling four trains per day "as a minimum" (para 4.89, first sentence)?

11.4.109. The opinion of the ExA in the East Midlands case was that paragraph 4.83 was not complied with as the rail line would not be constructed for three years, according to the programme. Therefore, the requirement in that paragraph for the development to be in a form from the outset that could accommodate rail and non-rail was not met see paragraphs 4.2.14 and 4.2.22-24 of the ExA's report. Nor did it consider that the development would be capable of providing "for a number of rail connected or rail accessible buildings for initial take up" (paragraph 4.88 of the NPSNN) for the same reason. We note an important difference at Northampton Gateway. The complaint does not suggest that the rail connection cannot or would not be made; the complaint is as to the tailpiece in the requirement, which allows the RPA to relax the imperative that the warehouses cannot be occupied until the rail terminal is available for use.

11.4.110. The second issue was in paragraph 4.88 - the words: *"It is not essential for all buildings on the site to be rail connected from the outset, but a significant element should be"*. The ExA said that *"The expectation we draw from this is that a SRFI should provide for some of the warehouse buildings to be rail connected in due course, even if this is not achieved at the commencement of the development programme"*. See paragraph 4.2.15 of the ExA's report. There were rail-served buildings but none with rail connections – all containers would be off-loaded at the terminal and then transported to the warehouses by road-based goods tractors. Therefore, the question of whether they would be provided at the outset did not arise. However, we do note the ExA's comment that the expectation of the paragraph is that some buildings should be rail connected in due course; this indicates that in their view the word "outset" in this context is not to be interpreted as meaning from the very beginning.

11.4.111. The ExA's third issue is not relevant here. The fourth issue is addressed at paragraph 4.2.18. Paragraph 4.88 of the NPSNN states that *"The initial stages of the development must provide an operational rail network connection and areas for intermodal handling and container storage"*. The question was as to the meaning of the words *"initial stages"*. The ExA said at paragraph 4.2.23:

"Given the lengthy period of 30 years intended for the build-up of rail operations, the availability of the rail line and the terminal not until 3 years after the start of construction of the SRFI could be argued as consistent with the requirement that they be provided in the 'initial' stages of the scheme as a whole, but not in relation to the development programme in our view."

11.4.112. The development programme provided for 276,570m² to be completed before the railway line would become available. The railway line would not be available until then because of essential earthworks. At almost 47% of the space, the ExA felt this was incompatible with the concept of 'initial stages'. Quantum and the relative amount of development as well as time were both in play.

11.4.113. On paragraph 4.89 the ExA concluded that the Applicant's claim to be able to receive 775m trains from the outset was wrong given the proposed timing of the completion of a necessary rail link. But the ExA considered that the criteria in paragraph 4.89 were expressed as desirable and so was able to find that the application was compliant in respect of the other criteria.

11.4.114. We turn now to the SoS's decision letter. He held at paragraph 16 that *"from the outset this SRFI is being developed in a form that can (that is, will be able to) accommodate rail activities"*. In other words, the verb "can" in the context of paragraph 4.83 is capable of being fulfilled in the future. We contrast this with developing in a way which is inconsistent with rail activities being able to be accommodated. We agree with the SoS's interpretation and consider that paragraph 4.83 is satisfied in the case of the Northampton Gateway proposal.

- 11.4.115. We pass over the second and third issues which do not apply at Northampton Gateway.
- 11.4.116. The fourth issue concerns the meaning of the words '*initial stages*' in paragraph 4.88. The SoS noted the ExA's concern. He considered that on a narrow interpretation, the phrase '*initial stages of the development*' would not be satisfied. But he said at paragraph 23 that for the reasons given at paragraph 16 he considered that the rail facilities would be provided as soon as reasonably practicable, and that the application proposals comply with paragraphs 4.83 to 4.89 "*as at paragraph 19 above*".
- 11.4.117. We must therefore turn to paragraph 16 of the SoS's decision letter (from which we have quoted in relation to the first issue). Paragraph 16 relates in our view to the arguments about all three paragraphs of the NPSNN under discussion at East Midlands Gateway – 4.83, 88 and 89.
- 11.4.118. It reads as follows:

"The Secretary of State does not agree with the Examining Authority that the fact that a proportion of the warehousing would be made available for use in the period of 3 years during which the rail link was being constructed means that the project would fail to meet the functionality requirements of the NPSNN referred to above. He appreciates that the construction of warehousing and the construction of a new railway will involve different timescales and he considers it entirely reasonable that a commercial undertaking should seek to generate income from the warehousing facilities before the railway becomes operational. The Secretary of State considers that the interpretation of these NPSNN requirements must allow for the realities of constructing and funding major projects such as this. Having regard to the terms of paragraph 4.83 of the NPSNN, he is satisfied that, from the outset, this SRFI is being developed in a form that can (that is, will be able to) accommodate rail activities. He considers further that it is not unreasonable to regard the requirement for rail accessible buildings to be available "for initial take up" as having been effectively met in the circumstances of this project, taking into account the time required for essential earthworks and for subsequent construction of the rail infrastructure, the 30 year period planned for the build-up of rail operations and the limitation on how much warehousing can be occupied before the rail line is operational (see paragraph 24 below)."

- 11.4.119. Paragraph 19 reads as follows:

"The Secretary of State accepts that on a narrow interpretation of paragraph 4.88 of the NPSNN the application proposals would not provide a significant element of directly rail connected warehousing units. However he considers that, reading paragraph 4.88 with paragraphs 4.83 and 4.85 of NPSNN, the proposed SRFI would be compliant with the policy in the NPSNN as a whole in that from the outset it would be developed in a form that can accommodate both rail and non-rail activities and that the links to the road and rail networks would certainly

be adequate. Moreover, in the Secretary of State's opinion the need for and other benefits of the project recognised by the Examining Authority (at ER 5.1.57) are important and relevant matters, to which regard must also be had (under section 104(2(d) of the 2008 Act), and which overcome, in any event, the Examining Authority's concerns that were based on a narrow interpretation of the last sentence of paragraph 4.88 taken in isolation."

- 11.4.120. Paragraphs 4.83, 4.88 and 4.89 of the NPSNN are set out in full above. Paragraph 4.85 emphasises the importance of adequate road and rail links for SRFIs and that rail access can be variable for services, train length and intermodal services. Paragraph 4.87 emphasises that there can be many benefits for the local economy, for example in employment, and that the existence of an available and economic workforce will be an important consideration. The opening sentence of paragraph 4.83 stresses that rail freight interchanges are locations not only for freight access but for businesses capable now or in the future (underlining added) of supporting their commercial activities by rail. The SoS uses all of these policies in his reasoning - see not only paragraph 19 but also the last sentence of paragraph 23 in deciding the meaning of the words 'initial stages' at East Midlands Gateway could extend to 260,000 m², or 47% of the floorspace.
- 11.4.121. It seems to us that there may be reasons in paragraph 16 for applying policy with some latitude or, put another way, for not following it strictly. But that is a matter for the SoS to decide. It is a matter of whether or not to deviate from the policy rather than its meaning. There are also practical differences from the situation at Northampton Gateway which, it could be argued, militate in favour of Req 3(3) and its tailpiece.
- 11.4.122. The practical difference is that at Northampton Gateway there has not been any suggestion that there are impediments to delivering the rail terminal ahead of occupation of the warehouses. That is the prime imperative in the requirement. It can only be relaxed on application to the RPA. And as a tailpiece that is now subject to the EIA process under Art 45. In plain terms, planning reasons must be shown to relax the prime imperative and there is the 140,400m² absolute bar. It should be recognised that no practical justification has been offered for the choice of 140,400m². The SoS may wish to reassure himself on it, but in our view there is no evidence and it is arbitrary.
- 11.4.123. That practical difference, however, also militates against allowing the tailpiece. This is because there were practical reasons at East Midlands Gateway for allowing a longer timeframe to provide the rail terminal - namely the construction programme and the essential earthworks. But at Northampton Gateway the tailpiece has not been justified on such grounds. There is no reason in the EM. And no reason is given for the choice of 140,400m² as the absolute limit. We accept that the main imperative in the requirement is to deliver the rail terminal before occupation of any warehouses, and that no other SRFI DCO contains such an early trigger, but the justification is not on all fours with East Midlands Gateway.

- 11.4.124. We now turn to paragraph 19 of the SoS's decision letter. This deals not only with the words 'initial stages' but also with the last sentence of paragraph 4.88 of the NPSNN. We note that the ExA in East Midlands took the view that this did not mean that the warehouse buildings had to be provided at the commencement of the programme. On the other hand, its concern in relation to paragraph 4.83 was that the buildings would not be rail-connected at the 'outset' or commencement, see paragraph 4.2.14 of its report.
- 11.4.125. In paragraph 19 the SoS takes paragraph 4.88, with paragraphs 4.83 (which says form must allow for rail and non-rail activities, and which is met) and 4.85 (which requires adequate links to road and rail, and which is also met) together, and concludes that the policy in the NPS as a whole – which includes 4.88 - is therefore met. We find it difficult to see how compliance with one or more parts of the NPS can change the meaning and interpretation of another part. The SoS also took support for his view of the meaning from the ExA's view that there are other benefits of the project to which the ExA referred at paragraph 5.1.57 of its report. Those were, however, to be taken into account if the SoS were to find the application met policy despite the ExA's view. They were not support for interpreting the policy.
- 11.4.126. It is of course possible to depart from a policy with reasons. RC made that very point. But the meaning of policy does not change because of the circumstances of a case.
- 11.4.127. In our view of the meaning of the words in paragraph 4.88, the tailpiece to Req 3(3) does not comply with paragraph 4.88 because; it allows for there to be no rail connected / accessible buildings to be available for initial take up; there is no justification for it not to provide for an operational rail network connection in the 'initial stages' and; it could allow for no buildings to be rail connected from the outset. Nor does it comply with the first sentence of paragraph 4.89 as it could allow for there not to be the capability of handling four trains per day 'as a minimum'.
- 11.4.128. For the Applicant it was submitted that on RC's approach a rail terminal would not be an NSIP until the warehouses were added and therefore could not be constructed; such a scenario would be highly unlikely. We consider this to be the case. We think that the meaning of paragraphs 4.88 and 4.89 is clear. From commencement of operations, some warehouses must be rail-connected / accessible.
- 11.4.129. We now turn to RC's submission that to allow the tailpiece to remain would be to allow the possibility that something which is not an NSIP can be constructed. We reject this submission. The definition of an NSIP is contained in section 14 and, so far as rail freight interchanges are concerned - section 26.
- 11.4.130. Section 14 reads: "*In this Act "nationally significant infrastructure project" means a project which consists of any of the following—(a) ... (k)*

(l) the construction of a rail freight interchange"

- 11.4.131. Section 26 reads: "*The construction of a rail freight interchange is within section 14(1)(l) only if (when constructed) each of the conditions in subsections (3) to (7) is expected to be met in relation to it*". Those subsections go on to list matters such as location (in England), train capacity and presence of warehouses and size (over 60 ha). The current expectation in this case is that when built those matters would be satisfied. But the order of construction is not specified. And by use of the word "expectation" it is clear that some element of uncertainty is permissible. We therefore agree with the Applicant's interpretation of the meaning of nationally significant infrastructure project.
- 11.4.132. In the result, our recommendation to the SoS is to delete the tailpiece to Req 3(3). The Proposed Development (i) may not provide rail connected / accessible buildings for initial take up; (ii) the initial stages may not provide an operational rail network; (iii) there may not be a significant element of rail-connected buildings from the outset; (iv) there may not be the capability of handling four trains per day as minimum; because of the tailpiece. These are essential according to paragraph 4.88 (items (i) – (iii)) and 4.89 (item (iv)). The precise words to be deleted are set out in the Table below. They have been deleted in the recommended DCO.
- 11.4.133. Before leaving Req 3(3) there is one further matter to consider. In answer to ExQ 2.9.11 [REP5-021] the Applicant suggests it would be prepared to see an amendment to 3(3) to refer to 'four intermodal trains' rather than goods trains. This is in response to the views expressed that the aggregates trains that would be transferred from the present aggregates site in central Northampton site should not count towards the four trains per day. The Applicant made the point in their reply that the words "goods trains" have been used in compliance with the wording in the NPSNN and PA2008 but it would be content for the change to be made if the ExA found it important and necessary. We recommend that the change be made and have done so in the recommended DCO.
- 11.4.134. It is convenient now to consider square bracketed Req 3(4) within the Applicant's final version of the dDCO. This would require the rail infrastructure to be retained so that at all times at least four goods trains per day can be handled, unless otherwise agreed with the RPA. We had asked at ISH3:2 whether the definition in PA2008 as being capable of receiving four good trains per day was an ongoing requirement. Req 3(4), but with square brackets, was part of the Applicant's response. It reads:
- (4) [Following the provision of the rail infrastructure no rail infrastructure must be removed which would impede the ability of the rail terminal to handle four goods trains per day unless otherwise agreed in writing by the relevant planning authority].*
- 11.4.135. The Applicant added commentary in its reply to ISH3:2 to the effect that the definition governed the consenting route rather than the ongoing use.

- 11.4.136. In addition, concern had been expressed during the Examination by many IPs that the rail connection would not in fact be built, with the obvious implication that the benefits of rail transport would not come to fruition. The air quality chapter of the ES explains the air quality benefits of removing 92 million miles of HGV traffic when the Proposed Development is built out and the NPSNN lays weight on such benefits from SRFIs.
- 11.4.137. This part of Req 3 obviously also needs to be considered against the criteria set out in the NPSNN. We begin with paragraph 15.2 of the NPSNN, namely: *"Requirements should therefore be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects"* alongside the definition in s.26, the relevant part of which is that *"when constructed the RFI is expected to be capable of handling ... (b) at least four goods trains per day"*.
- 11.4.138. We do not read the Applicant's objections to Req 3(4) as being based on the policy tests of precision, enforceability, relevance to planning, or reasonability and in that respect we agree with them. The thrust is that it is not necessary when the true meaning of the statute is considered nor when the NPSNN is considered. This might found an argument in reasonability. There was not a great deal of discussion, if any, of this in the submissions after ISH3 on the part of the RPAs, NCC, RC and other IPs. Several councils were expressly in favour of Req 3(4).
- 11.4.139. The Applicant also objects to Req 3(4) on the basis that it inappropriately constrains the operation which may be affected by matters beyond the Applicant's control.
- 11.4.140. Although there was little oral discussion of the statutory criteria and their purpose in the context of Req 3(4), we agree with the Applicant that the legal criteria govern the consenting stage, not the ongoing operation.
- 11.4.141. The policy criterion is that at paragraph 4.88 of the NPSNN, namely that the rail connection must be provided in the early stages. There was little discussion of the policy criteria in relation to Req 3(4).
- 11.4.142. We take the view that Req 3(4) is consistent with policy 4.88, which emphasises the importance of early provision. Removal would be inconsistent with that.
- 11.4.143. One of the purposes of SRFIs is to reduce transport emissions. The Applicant makes considerable claims in the air quality chapter of the ES and noted above about the amount of NO₂ removed when the rail terminal would be fully functioning. Those benefits would not be delivered if the rail connection is removed.
- 11.4.144. For these reasons we take the view that Req 3(4) is necessary, reasonable and in conformity with the other policy tests. The Applicant's objection that it is constrained by the requirement when matters beyond its control arise is tempered by the tailpiece to its Req 3(4), namely that removal can be agreed by the RPA. That would of course be subject to

the EIA controls discussed above which permit the likely effects of removal, or lack of them, to be taken into account.

Requirements dealing with interaction with Rail Central

- 11.4.145. Three requirements address this. They are 30 (footpaths); 31 (Junction 15A) and 32 (connections to the Northampton Loop Line). All three are agreed with RC.
- 11.4.146. Req 30 requires the undertaker, if the Rail Central Order is made, to permit RC to connect to a footpath being created by the Applicant so as to allow timely provision of footpath connections. There is little room for manoeuvre for the location of these connections and they allow continuity of the footpath network.
- 11.4.147. Req 31 requires notice to be given to HE of the commencement of Works No. 11 (the Junction 15A improvements). This then allows HE to consider if the works to Junction 15A approved in the Rail Central Order are adequate to mitigate the impacts from both RC and Northampton Gateway. If HE and the highway authority then both serve a counter-notice that for that reason Works No. 11 should not be carried out, there is no longer any requirement to do so. This serves to avoid the disruption of two sets of works being carried out.
- 11.4.148. Req 32 deals with the rail connections. Again, if the RC Order is granted this ensures that the details of the rail connection approved for the Northampton Gateway development under Req 8 do not prevent the RC development from connecting.
- 11.4.149. There was no serious objection to these requirements, except in relation to the last, Req 32, which was not tabled to the Examination until just before ISH5; SNC had concerns and objected.
- 11.4.150. The SNC objection was voiced at ISH5 and is most conveniently set out in its post-ISH5 submission of 19 March, [AS-074]. SNC said that to decide whether the connections are compatible and meet the test requires expertise SNC does not have, that the input of NR is necessary as it is responsible for the rail network and has the necessary experience, and that NR is responsible for the final decision of whether to allow a connection. SNC also made submissions in relation to the policy tests for requirements, found at Advice Note 15: "*Requirements should therefore be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects*". SNC objected on the grounds of necessity, relevance to the Proposed Development, precision (as details of the RC layout are not expressly required to be submitted), enforceability (as SNC could not enforce against itself), and reasonability as feasibility cannot be assessed without the engagement of NR.
- 11.4.151. We do not think there can be any objection on the last four points. To take them in reverse order:

- Reasonability – what is needed is evidence, not the participation of a particular entity. Doubtless NR could provide a swift answer, but it is unlikely to be the sole repository of knowledge on such matters.
- Enforceability – we do not think it is a question of the authority enforcing against itself; the requirement specifies the test to be applied and the applicant at the time will want to supply the information or risk refusal.
- Precision – a scheme submitted without details of the RC connections could presumably be refused. But the absence of an imperative to supply those details does not in our view make the requirement imprecise.
- Relevance to Northampton Gateway. The operation of the rail network is of importance to both RC and the Applicant which can arguably be relevant.

11.4.152. We come to the first test; necessity. We find this more troublesome. How is it necessary to impose this requirement? It obviously helps relations between RC and the Applicant. In its post-ISH5 submission the Applicant states: *"The intention behind the requirement is to ensure that the construction of Northampton Gateway in advance of Rail Central does not frustrate the delivery of Rail Central."*

11.4.153. We queried whether Req 32 fettered SNC's discretion. RC responded at some length and we are satisfied with its explanation. As part of that, its post-ISH5 submissions [REP6-018] included the following explanation of the public interest in Req 32:

"There is nothing unorthodox or unlawful in the Secretary of State by means of secondary legislation identifying an objective in the public interest and requiring the relevant planning authority to approve details only if satisfied they would meet that objective."

11.4.154. The factors we list under relevance may have some bearing on necessity, but we think there is a fair case to be made that the necessity test is not met. In that case, given the policy on SRFIs in the NPSNN and the fact that the Applicant, RC and NR are in agreement on Req 32, we recommend that the SoS expressly makes an exception to the application of the policy if he approves the DCO. In view of the fact that SNC has challenged the requirement on five policy tests we recommend that the SoS considers and makes the requirement an exception from all the tests. We have therefore included it in the recommended DCO

The approvals procedure

11.4.155. Part 2 of Schedule 2 makes provision for submissions under the requirements and for appeals. Its origin is Appendix 1 to Advice Note 15 – Drafting Development Consent Orders. The latest edition of that note and the appendix were published after the application was made. The Applicant added Part 2 of Schedule 2 at D2.

11.4.156. SNC objected to aspects of Part 2 in several submissions. Its final submissions at D7 in [REP7-015], which are on the final version of the

dDCO, repeat its earlier submissions and focus on one aspect in particular, that of the amount of fee it considered should be paid.

- 11.4.157. SNC's concerns are as to the shorter timeframes in Part 2 and the lack of any provision for fees to be paid. Normally, for applications for approval of reserved matters in applications under TCPA a fee would be payable. Appendix 1 to Advice Note 15 (AN 15) includes a provision for that, albeit with a blank for the amount of the fee.
- 11.4.158. We also asked questions about Part 2 in the schedule accompanying the Commentary in the DCO [PD-009]. We shall deal with SNC's concerns first. NBC made similar points in [REP5-039] albeit from the point of view of an authority not dealing with the majority of the requirements.
- 11.4.159. In relation to timeframe for approval of applications under the requirements, SNC submitted in its response to the Commentary and DCO questions [REP5-043] that these applications are akin to reserved matters submissions under the TCPA. In such cases the period would be eight weeks rather than the 42 days in the dDCO. The Applicant's response on Schedule 2 generally in its oral submissions at ISH5 was that it was merely following Appendix 1 to the Advice Note and that it is for others to make their case against it if they have one. There is little explanation in the Advice Note for the shorter timescales.
- 11.4.160. The matters to be considered in this case can be complex. Though SNC did not refer to this, we note that EIA issues would need to be considered in the light of Art 45. We therefore recommend amending the time periods in Schedule 1 Part 2 from 42 days to eight weeks.
- 11.4.161. Paragraph 2 allows for requests for further information within 10 days of the application under paragraph 1. SNC commented that this is a very short time. It did not, however, suggest an alternative. Nevertheless, the Applicant in [REP5-023] did suggest 20 days rather than 10 if the ExA wished to extend the timeframe. We have amended the time period accordingly.
- 11.4.162. On the question of fees, the Applicant has omitted paragraph 3 of Appendix 1 to AN 15, namely the provisions for payment of fees to the RPA for considering the applications. SNC pointed out that under the TCPA procedures fees are normally payable. The DCO would impose additional burdens on it. The DCO should either define the fees payable or make provision for a service level agreement and a means through which SNC could recover costs from the Applicant. SNC pointed to the High Speed Rail (London to West Midlands) Act 2017 as an example of this. No drafting was suggested however.
- 11.4.163. In its final submission – [REP7-015] - SNC suggested adopting the fees payable for reserved matters applications under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended). The Applicant's position (set out at [REP5-023]) is that it has been proceeding on the basis there would be a planning performance agreement (PPA) with SNC,

as has happened (with a different council) at East Midlands Gateway. At [REP6-014] the Applicant added that it has a PPA with SNC for this DCO application and expects to do the same for resourcing approvals under requirements.

- 11.4.164. We can anticipate there may be difficulties in negotiating a service level agreement without some sort of baseline. Whether an agreement would be possible if the fee structure is already in place may be debatable. But we do know that such agreements occur for ordinary applications for planning permission under the TCPA where fees are specified. In all the circumstances we accept SNC's submissions at [REP7-015] and have amended the dDCO accordingly.
- 11.4.165. In relation to our own questions on Schedule 2 Part 2 the Applicant replied at [REP5-023]. We are content with their explanations, save for three. The first – referring to the expectation of a planning performance agreement – has already been referred to in the context of fees above and there is no need for further comment.
- 11.4.166. The second concerns paragraph 3(2)(b) and where to send an appeal against a refusal of an application under paragraph 1. Appendix 1 says that it must be sent to the SoS, but gives no further information. The Advice Note specifically explains that no more is advisable as the machinery of Government can change. The Applicant has inserted the words “[directed to []]”. We have some sympathy with the Applicant's position, but in our view the advice is well-grounded, and we recommend the deletion of those words.
- 11.4.167. The third is the timeframe for dealing with appeals. This is at paragraph 3(3) of Schedule 2 Part 2. It says:
- "The appointed person must make a decision and notify it to the appeal parties, with reasons, within 20 working days of expiry of the 20 working day period referred to in 3(1)(e) or, if applicable, within 20 working days of the expiry of the 10 working day period referred to in sub-paragraph (6)".*
- 11.4.168. Whereas the wording in AN 15, Appx 1 is:
- "The appointed person must make a decision and notify it to the appeal parties as soon as reasonably practicable".*
- 11.4.169. The Applicant's justification for this is at [REP5-023] page 40. *"The intention was to impose a discipline of a decision within a certain timescale – similar to the timescales imposed on actions of others under 3(3) however, if desired, this either revert to the wording in the AN or there could at least be an objective noted of a decision within those timescales."*
- 11.4.170. First, there is a misprint. 3(1)(e) does not exist. The reference must be to 3(2)(e), which is the end of submissions between the parties. Secondly, it would be unusual for the SoS to accept such a time constraint and there may be a range of circumstances and reasons why it
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would not be practicable or possible. We therefore recommend that 3(3) reverts to the wording in AN 15, as suggested by the Applicant.

Changes agreed with IPs (in SoCGs and otherwise)

11.4.171. These are set out in the following table.

Table 7 Changes agreed with IPs

Provision	Examination Issue	IP with whom agreed
Art 2 – definition of HGV	To ensure HGVs carrying light goods are included	NCC
Art 6(2)	Inserted to exclude wide power of maintenance in Art 6(1) from highways following question ISH1:23	NCC
Art 9(2)	NCC sought amendment to ensure applications to alter layout etc of streets are accompanied by all relevant material and to provide a longer period for consideration. See SoCG [REP1-011]	NCC
Art 11(3)	Time period for stopping up of a street to be specified in an application to a street authority for consent - see SoCG [REP1-011] and question ISH1:23	NCC
Art 11(5)	As agreed with HE in SoCG [REP1-007], applications to a street authority for temporary stoppings up to be accompanied by all relevant information; period for deemed approval to be 42 days. (Note that HE asked for 56	HE

	days; the ExA has made a recommendation that the period be 42 days and that is the period in the recommended DCO.)	
Art 14(1)	Maintenance by highway authority to be from final (not provisional) certificate - see SoCG [REP1-011]	NCC
Art 17(7)	As agreed with HE in SoCG [REP1-007], words added to make it a pre-requisite of deemed approval that the application for consent to revoke etc traffic regulation orders is accompanied by all relevant information. Period for deemed approval to be 42 days. (Note that HE asked for 56 days; the ExA has made a recommendation that the period be 42 days and that is the period in the recommended DCO).	HE
Art 21(4)	Inserted by the Applicant at D4 (see changes tracker [REP4-005] to address concerns of HE. [REP6-012] page 12 states that by ISH5 the only outstanding matter between HE and the Applicant related to deemed approvals. This matter is therefore agreed.	HE

Art 21(5)	Prohibition on discharging water into watercourse without the consent of the lead local flood authority (LLFA), and consequential amendment to Art 21(10) - see SoCG with NCC [REP1-011] – note that renumbering has occurred since SoCG.	NCC
Art 21(5)	Additional wording added to require consent of LLFA before undertaking works within nine metres of an ordinary watercourse; see Changes Tracker [REP4-005]	NCC
Art 22(6)	As agreed with HE in SoCG [REP1-007], words added to make it a pre-requisite of deemed approval to a highway or street authority for consents for trial holes that the application is accompanied by all relevant information. Period for deemed approval to be 42 days. (Note that HE asked for 56 days; the ExA has made a recommendation that the period be 42 days and that is the period in the recommended DCO.)	HE
Art 34(6)	Disapplication of Art 34 to the strategic road network, at the request of HE. Consequential amendment to Art	HE

	34(6). See Changes Tracker [REP4-005]	
Art 35(4)	Obligation to remove temporary accesses extended so as to refer also to temporary highway accesses - see SoCG [REP1-007].	HE
Art 36(1)(c)	Amended to require approval for temporary highway accesses – see SoCG [REP1-007]	HE
Art 36(5)	Extended to refer also to temporary highway accesses - see SoCG [REP1-007]	HE
Req 1	Definitions of “Rail Central Development”, “Rail Central footpath connections” and “Rail Central Order” agreed with RC – see Changes Tracker [REP5-014].	RC
Reqs 3, 8, 10, 12, 15	Obligation to consult with NBC inserted, as requested by NBC – see Changes Tracker [REP5-014].	NBC
Req 4(9)	Wording of obligation to install and maintain HGV monitoring system agreed with NCC – see Changes Tracker [REP5-014].	NCC
Req 18	Flood risk and surface water drainage - Amended in accordance with SoCG with NCC [REP1-011]	NCC
Req 23(1)	Amended following discussions with SNC to extend range of	SNC

	equipment to which this applies	
Req 23(2) and (3)	New sub-paragraphs to address SNC concerns on noise monitoring – see explanation at Changes Tracker [REP4-005] and also on Req 23 as a whole SoCG with SNC [AS-058].	SNC
Reqs 30, 31 and 32	See commentary above “Requirements dealing with interaction with Rail Central” and Changes Trackers [REP4-005] and [REP5-014] and [REP6-008]. Req 32 is also agreed with NR	RC (and NR in relation to Req 32)
Sch 13 Pt 1 – protective provisions with NR	Several amendments as agreed with NR – see SoCG[s] [REP1-016] and Change Tracker of 19 March [REP6-008]. Protective provisions are agreed with NR.	NR
Sch 13 Pt 2	Several amendments as agreed with HE – see SoCG [REP 1-007], and exchanges between HE and the Applicant [REP1-115 and [REP1-114] summarised in Changes Trackers [REP4-005] and [REP-5-014]. At the conclusion of ISH5 the only matter outstanding between HE and the Applicant was in relation to deemed approvals. We have made recommendations on that.	HE

Sch 13 Pt 3	Several amendments as agreed with NCC – see SoCG [REP1-011] which also lists parts not agreed. At the end of ISH5 and in the Applicant's post-ISH5 submission it was confirmed that the outstanding matters were agreed and the text included in the Applicant's final version of the dDCO, [REP6-006]. See also Changes Tracker [REP6-008]	NCC
Sch 13 Pt 4	Protective provisions agreed with Cadent - see SoCG with Cadent [REP-1-010] and withdrawal of objection at [AS-079]	Cadent
Sch 13 – Pt 6	Various amendments – see Changes Tracker[REP-5-014].	Western Power Distributors
Sch 14 para 3(12)	Wording added at the request of HE – See Changes Tracker [REP-5-014].	HE
Sch 15	Wording added at paras 1 and 4 following discussions with NCC – see Changes Tracker [REP-5-014].	NCC

The cases for changes suggested by other IPs

- 11.4.172. SNC made submissions following ISH5 [REP6-040] that Req 8(1), which allows for the Design and Access Statement to be revised with its agreement, should be amended and the wording changed to “*submitted to and approved in writing by the relevant planning authority*”. The Applicant agreed in its response [REP7-007] that the agreement should be in writing. This was, however, omitted from the last draft of the DCO [REP6-006]. We recommend that it is added.
- 11.4.173. SNC also objected in the same document to the inclusion of the word “*written*” in “*written landscaping scheme*” in Req 10(1). The Applicant is

content for that, but the amendment has not been made in the final dDCO. We recommend that it is made as it is presumably making the point that a landscaping scheme would include visual material. We disagree with SNC's suggestion that the references in Req 10(1) to "*ecological mitigation works*" and "*ecological mitigation*" are confusing and we do not recommend the amendment it suggests.

11.4.174. SNC made other suggestions for changes in its post-ISH5 submission [REP6-040]. It also sought changes in [REP5-043] – its responses to ExQ2 – and at D7 [REP7-015] when it raised a number of points, some new, close to the end of the Examination. We have considered them all and the Applicant's responses. The substance of a number of them is dealt with above. Where we have not dealt with them expressly it is because we consider the points have been adequately addressed in the evidence (including the dDCO) or in the Applicant's responses.

11.4.175. By the end of ISH5 there were no outstanding points with NCC and all had been agreed. The final version of the dDCO submitted by the Applicant incorporates the changes agreed.

The issue between HE and the Applicant over deemed approvals

11.4.176. HE and the Applicant had discussions during the Examination on the terms of the protective provisions. One matter could not be resolved between them and we heard final submissions from them at ISH5. The provisions in question are to be found at Art 13 (accesses) and paragraph 15 of Schedule 13, Part 2. The former deems approvals of applications to highway authorities for accesses to be created or improved at such locations as the undertaker reasonably requires for the purposes of the authorised development. They must be within the Order limits. HE is obviously a highway authority.

11.4.177. The latter applies to any approvals, certificates, consents or agreements required under the protective provisions in Schedule 13 Part 2, that is to say, those in favour of HE. The approval period is 42 days in both cases. Though in the case of a reasonable request from HE for further information within 28 days, the period of 42 days commences on the day the undertaker provides that information.

11.4.178. HE objected to these provisions in its WR [REP1-115]. The Applicant first set out its position in response to ISH1:18 [REP1-019] and in its response to WR at [REP2-010].

11.4.179. To summarise HE's objection:

- HE points to the statutory direction imposed on it under the Infrastructure Act 2015 and paragraph 4.2 of its licence to (amongst other things) ensure the effective operation of, and to protect and improve the safety of, the SRN. It is HE's belief that deemed approval provisions compromise its ability to comply with this statutory direction;

- the protective provisions have been drafted in such a way to mirror a standard s278 agreement and largely reflect the process that HE would expect a developer to follow should it wish to carry out work on the SRN;
- a longer period was sought than the 28 days originally in the dDCO, namely 56 days;
- deemed approval would mean a presumption that a design under an unknown contract from a third party design firm of unknown provenance could be acceptable; that would be inappropriate and would put contractors building it and the travelling public at adverse safety risk;
- to presume that a design is fit for construction because the timescale for the decision has elapsed introduces the risk that it is not DMRB compliant. Liability for accidents because of sub-standard design, if liability rested with HE would be a cost to the taxpayer;
- the deemed approval process removes the checks and balances in the road safety audit process;
- there may be large maintenance liabilities for HE if errors are present;
- deemed approvals would override the requirement for departures from standard to be separately applied for and approved, increasing the risk of dangerous work;
- if deemed approvals run to structural and geotechnical reporting and design, this could lead to inappropriate or ill prepared submissions being considered appropriate, increasing the chance of inappropriate works and safety incidents. Recent bridge collapses in America and Italy emphasise this point;
- deemed approvals would have the effect of the undertaker jumping the queue;
- in response to a point made by the Applicant, that in other DCOs promoted by HE there have been deemed approvals imposed on other parties, HE submitted that the DCOs in question were not relevant or comparable. At the A19 Testo's DCO the relevant statutory bodies had concluded they were acceptable; and
- additionally, HE's supply chain is set up through a strict tender process to achieve 100% compliant design work with safety as the first imperative, so safety concerns identified above would not apply and would be a factor in the acceptability of the deemed approval process in those applications.

11.4.180. In reply at [REP2-010] the Applicant submitted that the intent was not to force onto HE a design specification or action which is unacceptable, but to ensure that there is engagement by HE. The remedy is to refuse the application within the time period.

11.4.181. HE summarised its ISH5 submissions in [REP6-032]. These were similar to its WR:

- HE set out the text of s.5(2) of the Infrastructure Act 2015: "*...a strategic highways company must also, in exercising its functions, have regard to the effect of the exercise of those functions on—...-(b) the safety of users of highways*", and section 4.2 of their licence): "*Without prejudice to the general duties on the Licence holder under*

section 5 of the Infrastructure Act 2015, the Licence holder must, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to: ... (e) Protect and improve the safety of the network...";

- deemed approval could put it in breach of its statutory duties. HE stated that it does not object to Articles in the draft DCO that impose a deemed approval provision on HE where it considers a significant safety risk is not posed;
- but HE maintained its opposition to Art 13 and paragraph 15. In the other cases it sought a longer period – 56 days;
- DfT Circular 02/2013 contains a general presumption against new trunk road accesses being approved. This is relevant to Art 13;
- whilst HE acknowledged that the application process under PA2008 is different in its view once consent has been granted, it has no specific status that means it ought to receive more favourable treatment;
- HE has significant concerns over the risk that timescales are missed. A system would need to be set up to ensure a refusal was issued before time runs out (although it could never be 100% foolproof). This could be to the Applicant's disadvantage;
- HE has worked closely with the Applicant on the East Midlands Gateway scheme, the DCO for which does not contain deemed approval provisions. There has been a sound relationship with the Applicant throughout the design approval and delivery phases on that scheme;
- HE has finite resources. If this deemed approval process is adopted it would likely lead to a similar request from RC, and other applicants;
- HE's approach was approved in the case of the North London Heat and Power Generating Station DCO where National Grid successfully objected to deemed approval provisions on the basis that it would have the potential to undermine safe working;
- HE does not accept that the position it takes is hypocritical (which might be considered because of the existence of deemed approval provisions in its own DCOs); and
- HE submitted that it had a 'carve out' from deemed approvals at the Tilbury 2 DCO.

11.4.182. In reply at ISH5, summarised in its post-ISH5 written submissions [REP6-012], Appendix 6, the Applicant submitted that HE had both misunderstood the purpose of the deemed approval provisions and taken the view that it was distinct from every other statutory body and was a special case which should exempt it from such provisions:

- the provisions are not designed to impose an unacceptable design. They are to ensure engagement;
- it is not credible to argue they should not apply to HE because it may have an IT failure;
- nor is it credible to argue that only HE has safety considerations and statutory obligations in relation thereto that mean it should be exempt from deemed approval provisions;
- HE is no different from Network Rail and other statutory authorities, such as local highway authorities;

- in response to HE's concerns that 28 days was too short, the period has been increased to 42 days;
- four approved DCOs promoted by HE impose deemed approvals on various bodies including highway authorities, street authorities, traffic authorities, owners of watercourses, public sewers and drains, the Environment Authority (sic) and Network Rail, with, in almost all cases a response time of 28 days;
- the Port of Tilbury (Expansion) Order 2019 and the Silvertown Tunnel Order 2018 are particular examples;
- in relation to the assertion at ISH5 that HE had a 'carve out' in respect of Art 57(2) of the Tilbury Order, the Applicant questioned the basis of this. Art 57(5) provides that the deemed approval provisions do not apply to Part 3 of Schedule 10. Schedule 10 is the schedule which contains all the protective provisions. Part 3 relates to the protective provisions for the benefit of the Port of London Authority. Part 9 contains the protective provisions in favour of HE and it is not excluded from the operation of Art 57(2);
- the deemed approvals included in this dDCO are much more targeted than the overarching provisions at The Port of Tilbury (Expansion) Order 2019 and the Silvertown Tunnel Order 2018;
- the time period is more generous;
- the Applicant's experience in relation to the development of large projects, such as East Midlands Gateway, and the difficulties experienced of obtaining responses from HE, support the deemed approvals sought in this case; and
- if deemed approval provisions were not retained in the protective provisions, then it would be necessary to amend the protective provisions to provide for the dispute resolution to apply when no response is received rather than simply to where a difference or dispute has been identified.

11.4.183. Finally, the Applicant set out a list of DCOs with deemed approval provisions, identifying the provisions, authority affected and time periods. There were eight Orders dating from 2016 to 2019. The authorities affected included highway authorities, street authorities, traffic authorities, owners of watercourses, public sewers and drains, the Environment Agency and Network Rail.

11.4.184. Neither party claimed any support for its position from the NPSNN. We do not see there is any guidance there. We understand the safety concerns of HE. However, it can address that by simply ensuring it refuses within the timeframe if it is not in a position to approve. HE has successfully obtained similar provisions against other bodies with similar safety concerns, such as Network Rail and other highway authorities.

11.4.185. The timeframe of 42 days is longer than the times imposed on other parties. HE's request for a longer period is noted, but no real case was made for it over and above the case against deemed approval. We take the same view in the case of the other deemed approvals which HE has accepted in this case.

- 11.4.186. There are merits in both cases, but on balance we find the Applicant's arguments compelling. HE's suggestion that by deemed approval errors and sub-standard work may slip through can be addressed by good management. There are examples of deemed approvals being imposed by DCOs on comparable bodies. It is important for an applicant to be able to secure HE's engagement with an application.
- 11.4.187. We conclude and recommend that the deemed approvals provisions should remain as drafted in the final submitted version of the dDCO [REP6-006]. If the SoS does not accept our recommendation on this matter we would draw his attention to the point made by the Applicant summarised in our previous paragraph; *"If deemed approval provisions were not retained in the protective provisions then it would be necessary to amend the protective provisions to provide for the dispute resolution to apply when no response is received rather than simply to where a difference or dispute has been identified."*

Compulsory Acquisition

- 11.4.188. Part 5 of the dDCO contains Articles 23 to 38. These relate to powers of acquisition, including compulsory acquisition of land and rights, and the temporary use of land for carrying out the Proposed Development and for its maintenance. There was no demurring from these during the Examination. The only suggested modifications made during the Examination, other than drafting clarifications, related to Articles 34 to 36.
- 11.4.189. Art 34 (Rights under or over streets) has been amended to disapply the provision in relation to the strategic road network. Articles 35 (Temporary use of land for carrying out the authorised development) and 36 (Temporary use of land for maintaining the authorised development) have been amended to include reference to temporary highway accesses. These clarifying amendments have been agreed within an SoCG [REP1-007] between the Applicant and HE and are ones we accept.

The justification of the DCO provisions

- 11.4.190. The practical and legal justification for the provisions of the DCO needs to be shown in any application. Whilst the practical is to some extent justified in the other application documentation, the legal powers are normally and should (in our view) be contained in the EM. It can and should also refer to the practical and evidential basis for the DCO. The SoS will be concerned to know that the DCO is within the powers of PA2008 (and any other enabling laws).
- 11.4.191. We reviewed the DCO and raised questions about this mainly in ISH1 [PD-006] and ISH3 [EV-009]. We found that the EM [APP-071] submitted with the application was helpful but it often justified provisions on the basis they had been included in previous made Orders. Whilst it can be helpful to know this, we wanted to know the powers under which the provisions were made. Our question (ISH3:27) was therefore:

"Given the above questions on powers, and bearing in mind also para 1.4 of Advice Note 15, please will the Applicant update the Explanatory Memorandum to explain, for each and every provision of the DCO, which power in the PA is being used to make that provision, having regard also to, for example, s120 and all its subsections, s.150, and any other limits on the powers to make the DCO and its provisions? (The ExA appreciates that in many cases the provisions have appeared in other DCOs but that is not necessarily an assurance of validity.) Please can the update also include an explanation of how the tests for the powers in PA 2008 being used to make this DCO are met?"

- 11.4.192. Consent is needed under s150 of PA2008 where the need for certain consents is removed by the DCO. In our questions ISH3:19 and 20 we asked for the consents of the Environment Agency in relation to what was then Art 46(1)(a) and (b) which disapplied Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 and certain bylaws made under the Water Resources Act 1991. The Applicant responded that, given that it had previously accepted that environmental permits would need to be sought, it would delete those provisions. The final draft reflects this decision.
- 11.4.193. In response to ISH3:27 the Applicant submitted a revised and fuller EM [REP6-007] with the final dDCO. We have reviewed this document. It is fuller and helpful and satisfactorily answers and deals with ISH3:27. We have one or two immaterial differences from the Applicant in the choice of powers it says are used, and in approach, but we are satisfied that all the provisions of the final dDCO are within legal powers. There are one or two comments we would make for clarity.
- 11.4.194. We should make it clear that we asked questions about and are satisfied that the justifications for diversions and closures of highways, and for the removal of consents, meet the statutory tests. In some of the latter cases, the removals were found not to be necessary after our questions and the Applicant amended the dDCO accordingly.
- 11.4.195. At paragraph 7.17 the EM deals with the interaction with the EIA regime and adoption of the 'subsequent applications' approach. With respect we prefer our explanation above and, in particular, to the Applicant's reference to a test for subsequent applications set out in Schedule 2 of the Infrastructure Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017. It is convenient to highlight here, whilst dealing with EIA aspects, the Applicant's explanation of the changes to Art 6 and Further works. We draw attention to the fact that the question is whether there would be 'residual significant environmental effects' not identified at the time of this DCO application. As we state above, we believe this is satisfactory.
- 11.4.196. At paragraph 7.95 the EM states that Art 42, the inclusion of the defence to proceedings in statutory nuisance, is authorised by s158 of PA2008. In our view s158 is the statutory authority. The power to include the defence in Art 42 is s120.

- 11.4.197. At paragraph 7.136 the EM states that some lengths of road are to be subject to new traffic orders designating them as clearways. To clarify, in fact no new order is to be made. The clearway designation is made by Art 18 and is to have effect "*as if made by a traffic regulation order under the 1984 Act*" (see Art 18(4)).

Nuisance

- 11.4.198. Section 158 of PA2008 confers statutory authority for carrying out development under a DCO and doing anything else it authorises so as to provide a defence to civil and criminal proceedings for nuisance. This is subject to any contrary provision in the Order.
- 11.4.199. Paragraph 4.58 of the NPSNN states that it is important for the ExA to consider possible sources of nuisance under s79(1) of the Environmental Protection Act 1990 and how they can be mitigated or limited. Paragraph 5.81 advises that as well as noise and vibration, matters such as odour, dust, steam, smoke and artificial light should be considered. Paragraph 5.83 notes that for NSIPs covered by the NPSNN some impact on amenity is likely to be unavoidable but should be kept to a minimum and should be at a level which is acceptable. They should be addressed in the ES.
- 11.4.200. In relation to odour, dust, steam, smoke and artificial light paragraphs 5.87 to 5.89 state that the SoS should be satisfied as to reasonable steps to minimise any detrimental impact, to consider whether it is justified for the whole project to be covered by the defence of statutory authority (and if not to disapply the defence). Also, it needs to be ensured that any necessary mitigation would be put into place, in particular whether this should be a scheme of management and mitigation concerning emissions to reduce loss to amenity during construction and operation. Specific reference is made to a construction management plan.
- 11.4.201. In addition to the statutory authority defence contained in s158, Art 42 of the dDCO contains a defence to statutory nuisance proceedings. Its wording is almost exactly the same as the wording in the (repealed) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009/2265. Where there are differences, they are to the Applicant's disadvantage. The effect of Art 42 is to confer a defence to proceedings under s82(1) of the Environmental Protection Act 1990 for noise nuisance.
- 11.4.202. The defence applies if the nuisance is attributable to carrying out the authorised development in accordance with a s60 notice or s61 consent under the Control of Pollution Act 1974 or is a consequence of construction or maintenance of it and cannot reasonably be avoided or is a consequence of the use of the authorised development and it cannot reasonably be avoided. It also disapplies s61(9) of the Control of Pollution Act 1974 where the consent related to the use of the premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(Disapplying 61(9) means that in circumstances where the Local Authority has given consent under 61(4) for works which fall within the categories under s60(1), it is no longer mandatory for the consent to contain a statement saying to the effect that that consent in itself does not constitute any ground for defence against any proceedings instituted under s82 of the Environmental Protection Act 1990).

- 11.4.203. The Applicant submitted a statutory nuisance statement [APP-371] as required by Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. This is to be read alongside the submitted ES. The Applicant examines how s79(1) is engaged and identifies matters under s79(1)(d) (dust, steam, smell or other effluvia, which the Applicant describes as emissions), s79(1)(fb) (artificial light) and s79(1)(g) and (ga) (noise) as the matters potentially engaged by the Proposed Development. It points out that in order for action to be taken the nuisance complained of should either contain a risk to people's health or interfere with a person's legitimate use or enjoyment of land.
- 11.4.204. In relation to emissions (s79(1)(d)) the Applicant considers that dust is the only relevant matter identified and refers to the Air Quality Chapter (obviously in its original form, [APP-095]). It concludes that there are no significant effects from construction, having regard to the CEMP measures and that there are expected to be no significant nuisance effects. In relation to operational activities, the Applicant stated that only the operation of the aggregates facility / terminal carries any risk and it expected that after the application of best practice measures the residual risk is expected to be negligible. Accordingly, the Applicant concludes there are no impacts from s79(1)(d) emissions sufficient to be prejudicial to health or cause an unacceptable interference with the use or enjoyment of land.
- 11.4.205. In relation to lighting (s79(1)(fb) the Applicant referred to the Lighting Chapter of the ES [APP-115]. For the construction phase the only significant effect (that is, an effect exceeding minor adverse) would be on Milton Malsor properties that have full or partial views of the Main Site and properties on Collingtree Road and Barn Lane that are close to the Main Site boundary. Here, construction lighting effects are predicted to be moderate adverse until earthworks mounding (bundling) has been formed, whereupon this temporary effect is mitigated. The Applicant draws attention to the screening effect of the construction of the earthworks bunding as construction proceeds.
- 11.4.206. In the operational phase no significant effects from lighting on the Main Site are predicted. In relation to the Roade Bypass 19 properties situated relatively close to the proposed new roundabouts would be likely to experience significant (moderate adverse) effects of 'light presence' (light sources appearing in dark views) but not any other type of more pronounced or invasive lighting effect. With the exception of Hyde Farm, tree planting would largely remove the 'light presence'. But 'no property' (and that language includes Hyde Farm) would experience glare of light spill which the Applicant identifies as the more intrusive adverse effects

of nuisance and loss of amenity as the light would be directed downwards towards the road surface, not directly towards the properties. For the Main Site, *"light spill on the ground would fall rapidly to negligible levels within a few tens of meters (sic) from the perimeter of the Main Site"*. Light outputs on the Roade Bypass are much lower and landscaping and planting would entirely screen all ground level light spill for the nearest residential receptors.

- 11.4.207. The Applicant concludes that no impact from the lighting is therefore anticipated from any aspect of the Proposed Development sufficient to be prejudicial to health or cause an unacceptable interference with the use or enjoyment of land.
- 11.4.208. In relation to noise, the Applicant refers to the assessment carried out and reported in the ES Noise Chapter [APP-094]. It draws attention to the exclusion of traffic noise by s79(6A) of the Environmental Protection Act 1990 and excludes it from further consideration therefore.
- 11.4.209. During the construction period, there would be mitigation for noise and vibration (see paragraphs 8.6.6. and 8.6.8 of the Noise Chapter) and the chapter concludes they would be appropriately mitigated. There is also Req 12, which requires submission and compliance with P-CEMPs which would need to cover noise and vibration. They would, the Applicant submits, control noise levels to acceptable limits. No noise nuisance is therefore anticipated from the construction of the Proposed Development.
- 11.4.210. During operation, the ES concludes no significant effects are expected. Thus, the Applicant concludes that *"No noise impact is therefore anticipated from any relevant aspect of the Proposed Development sufficient to be prejudicial to health or cause an unacceptable interference with the use or enjoyment of land."*
- 11.4.211. In the questions we issued with the agenda for ISH3 [EV-009] we asked the Applicant why it required Art 42 given Art 5 (which authorises the operation and use of the development comprised in Works Nos 1-6), and the case of *Allen v. Gulf Oil Refining*⁸⁴. The Applicant's reply at [REP4-011] was that it preferred the certainty of being expressly dealt with in the DCO rather than being left to case law. It also drew to our attention that not only is the provision in the (repealed) Model Provisions Order referred to above, it is included in virtually every DCO.
- 11.4.212. We also asked the Applicant for the justification for the defence to nuisance in the Commentary on the DCO and question DCO-51 [PD-009]. After drawing attention to paragraph 5.87 of the NPSNN for context and referring us to the latest version of the Commitments Tracker [REP6-010], the Applicant submitted *"Accordingly it is appropriate for a defence against nuisance to be included to ensure that this nationally important*

⁸⁴ [1981] A.C. 1001

infrastructure is not constrained in its construction or operation, subject of course to the statutory compensation rights granted by s.152”.

- 11.4.213. We considered the ES in some detail and raised many questions. Our conclusions as to likely significant environmental effects are recorded above. Considering all the evidence we accept the conclusions of the ES and the statutory nuisance statement subject to our conclusions on construction plant emissions. These led us to recommend the slight revision to Req 12 noted above to ensure that emissions from construction plant are addressed in P-CEMPs.
- 11.4.214. The Applicant has demonstrated that it has taken adequate and reasonable steps to identify and mitigate potential nuisance sources. We agree with its choice of the matters potentially engaged. In our view there is little likelihood of other potential nuisances such as odour, steam and insect infestations which have not been covered, given the nature of the construction activities and operational activities proposed. Reasonable steps have been taken and provisions would be in place (on the basis that our amendment to Req 12 is included) to minimise any detrimental impact on amenity from the matters addressed, including the impact from artificial light on local amenity, intrinsically dark landscapes and nature conservation. We are satisfied that the assessment complies with paragraphs 5.84 – 86 of the NPSNN and that the tests for decision-making and mitigation in paragraphs 5.87- 89 are met.

11.5. THE EXA’S AMENDMENTS TO THE DCO

- 11.5.1. In the light of all the above, we recommend the following amendments to the final dDCO submitted by the Applicant at D6 [REP6-006]. They have been incorporated in the recommended DCO at Appendix D below.

Table 8 The ExA’s amendments to the DCO

Provision	Examination Issue	ExA reasoning
Req 1	Need for correct reference to the water framework directive compliance assessment. Delete “water framework directive assessment” means the document of that description contained in appendix 7.2 of the environmental statement” and insert “water framework directive assessment” means the document of that description (document number NGW-BWB-EWE-XX-RP-YE-0004_S2_P2) contained in the statement of common ground dated 2nd November 2018	The definition refers to the original version but a revised version was agreed with the Environment Agency at SoCG [REP1-015].

	made between the Environment Agency and Roxhill (Junction 15) Ltd (examination library reference [REP1-015])"	
Req 3(3)	To ensure that existing aggregate trains which will transfer to the aggregates facility / terminal at the Main Site are not counted towards the minimum 4 goods trains per day; delete "goods" and insert "intermodal".	To meet concerns of a number of IPs and as assented by the Applicant at [REP5-021]
Req 3(3)	Delete tailpiece. The words "unless the timing of the provision of the rail terminal is otherwise agreed in writing with the relevant planning authority but in any event the rail terminal must be available for use prior to the occupation of more than 140,400 square metres of warehousing" are deleted and the Req now reads: "A rail terminal capable of handling at least four intermodal trains per day, including 775 metre length trains, must be constructed and available for use prior to the occupation of any of the warehousing".	See reasoning above.
Req 3(4)	Remove square brackets from Reg 3(4).	See reasoning above.
Req 8(1)	Should approval of reviews of design and access statement be in writing? Add reference to "in writing" so that the requirement reads "The design and access statement can be reviewed and updated by the undertaker in agreement in writing with the relevant planning authority".	This is the normal position; it was suggested by SNC and in addition the Applicant assented to it – see [REP7-007]
Req 8(2)	Need to ensure there is a protocol for the operation of the height barrier at the entrance to the Main Site	See reasoning above in the transport section.

	restricting HGV right turn movement. Amend para (l) to insert the words "operation and" before "maintenance protocol".	
Req 10(1)	Deletion of the word "written" before "landscaping scheme" so that the requirement reads: "No component of the authorised development on the main site which includes landscaping (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) is to commence until a landscaping scheme..."	Again, suggested by SNC and assented to by the Applicant in [REP7-007]
Req 12(1)	Choice and maintenance of on-site construction plant. Amend Req 12(1) by the addition of the words italicised below. "No part of the authorised development is to commence, including any preparatory earthworks or site levelling but excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation, until a phase-specific construction environmental management plan ("P-CEMP") for that part of the authorised development, drafted in accordance with the principles set out in the construction environmental management plan, <i>and, insofar as on-site construction plant are concerned, having regard to the principles in "The Institute of Air Quality Management guidance on assessing dust emissions" current from time to time</i> has been submitted to and approved in writing by the relevant planning authority".	See reasoning above in the section on air quality.

Req 12(2)	Add references to revisions of P-CEMPs so as to ensure they also have to be approved by the relevant planning authority. The resulting wording reads: "Each P-CEMP is to be reviewed and updated if necessary to address unacceptable impacts arising from construction works. Each P-CEMP (and revision) must be submitted by the undertaker for approval in writing by the relevant planning authority or the relevant highway authority where the P-CEMP (or revision) relates to the highway works. All construction works must be carried out in accordance with the relevant P-CEMP (as revised) as approved".	In [REP7-015] SNC asked for Req 12(2) to be amended to ensure that revisions to P-CEMPs are required to be approved, in line with the original P-CEMPs and development carried out in accordance with them. The Applicant did not respond. In our view this is the intention of Req 12(2) but not clear from its wording.
Sch 2 Pt 2		
Para 1	Length of decision period; change 42 days to 8 weeks. Reword so as to delete 42 days and include the words in italics below: "(2) For the purposes of subparagraph (1), the decision period is— (a) where no further information is requested under paragraph 2, <i>eight weeks</i> from the day immediately following that on which the application is received by the discharging authority; (b) where further information is requested under paragraph 2, <i>eight weeks</i> from the day immediately following that on which the further information has been supplied by the undertaker under paragraph 2; or"	See reasoning above.

Para 2	Time period for requesting further information; change 10 days to 20 days, so that the wording is as follows: “(2) If the discharging authority considers such further information to be necessary it must, within 20 working days of receipt of the application, notify the undertaker in writing specifying the further information required.”	See reasoning above.
Insert new para 3	Fees for applications. The Schedule made no provision for fees. Insert wording below and renumber following paragraphs: Fees 3.—(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, a fee of £[X] calculated in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 as amended from time to time as though the application were a reserved matter application is to be paid to that authority. (2) Any fee paid under this Schedule must be refunded to the undertaker within 42 days of— (a) the application being rejected as invalidly made; or (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1, Article [X] unless within that period the undertaker agrees, in writing, that the fee is to be retained	See reasoning above

	by the discharging authority and credited in respect of a future application.	
Para 3(2)(b)	Specifying an address for an appeal – delete the words “[directed to []]”	See reasoning above
Para 4(3)	Time period for an appeal decision. Revert to wording in AN15 Appx 1. Delete existing wording and insert: “(3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.	See reasoning above.

- 11.5.2. We have also made a number of small punctuation and typographical corrections, too numerous to list. As mentioned earlier, during the course of the Examination we drew to the attention of the Applicant a number of typographical, spelling and punctuation errors largely taken on board by the Applicant.

11.6. CONCLUSIONS

- 11.6.1. Full regard has been had to LIRs. All matters raised and representations made have been taken into account whether in LIRs or elsewhere. Where representations have been made seeking alterations which we have not specifically mentioned or given effect to, we have decided that Applicant’s responses or other evidence deals with the matter satisfactorily, or the matter is not important and relevant or that insufficient weight should be given to it.
- 11.6.2. The Compulsory Acquisition and Temporary Possession powers contained with Articles 23 to 38 are appropriate and necessary.
- 11.6.3. We recommend that the Community Fund Contribution is not taken into account and that the SofS explicitly says so in the decision.
- 11.6.4. We recommend the same in relation to the Travel Plan Monitoring Fee.
- 11.6.5. We recommend a number of changes to the DCO listed in the Table 8 above and they are included in our recommended DCO.
- 11.6.6. There are exceptions to the requirement to decide in accordance with the NPS. They are set out from s104(4) to (8). In our view:
- nothing in the recommended dDCO would cause a decision in accordance with the NPSNN to lead to the UK being in breach of its international obligations;

- nor would anything in the recommended dDCO lead to a decision in accordance with the NPSNN to place the SoS in breach of duties under any enactment;
- nor would anything in the recommended dDCO lead to a decision which is unlawful under any enactment;
- nor does the DCO (on its own) constitute an adverse impact which would outweigh the benefits; and
- the DCO does not meet any condition prescribed.

11.6.7. The recommended dDCO set out at Appendix D is fit for purpose.

12. SUMMARY OF FINDINGS AND CONCLUSIONS

12.1. INTRODUCTION

- 12.1.1. This chapter summarises the ExA's conclusions arising from the Report as a whole and sets out a recommendation to the SoS.

12.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 12.2.1. In relation to s104 of the Planning Act 2008 (PA2008) the ExA concludes in summary that:

- making the recommended draft Development Consent Order (dDCO) would be in accordance with the National Policy Statement for National Networks (NPSNN), and would not substantively conflict relevant development plan policy and other relevant policy, all of which have been taken into account in this Report;
- matters arising from the Local Impact Reports from South Northamptonshire Council, Northampton Borough Council and Northamptonshire County Council have been taken into account;
- whilst the SoS is the competent authority under the Habitats Regulations and will make the definitive assessment, the Proposed Development would not be likely to have significant effects on European sites, species or habitats and this finding has been taken into account in reaching the recommendation;
- in regard to all other matters and representations received, there are no important and relevant matters that would individually or collectively lead to a different recommendation from that below; and
- with the mitigation proposed through the recommended dDCO, there are no adverse impacts arising from the Proposed Development that would outweigh its benefits; and there is no reason to indicate that the application should be decided other than in accordance with the relevant National Policy Statement, NPSNN.

- 12.2.2. The ExA has considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights required in order to implement the Proposed Development. At the close of the Examination there was only one formal objection extant and in respect of which negotiations were continuing, with agreement appearing likely. The CA and TP powers requested in all cases are necessary to enable the Applicant to complete the Proposed Development. In addition, there is a compelling case in the public interest, the Applicant has a clear idea of how it intends to use the land, and funds are available for the implementation.

- 12.2.3. The ExA has had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998.

- 12.2.4. However, with the weight of national policy in favour of the Proposed Development, the wider public interest qualifies any interference with the human rights of the owners and occupiers affected by CA and TP of lands. The interference in their human rights would be proportionate and justified in the public interest.
- 12.2.5. The ExA has had regard to the Public Sector Equality Duty (PSED). The Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there is no breach of the PSED.
- 12.2.6. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the desirability of preserving nearby listed buildings or their settings or any features of special architectural or historic interest which they possess. The Proposed Development affects but does preserve various nearby listed buildings, their setting and features.
- 12.2.7. With the changes to the recommended dDCO proposed in Appendix D to this Report, the Proposed Development meets the tests in s104 of PA2008.

12.3. RECOMMENDATION

- 12.3.1. Findings and conclusions on important and relevant matters are set out in this Report. In considering the recommendation, the Secretary of State may wish to be satisfied on the following points:
- Whether or not to take into account the Community Fund Contribution (which we have recommended be not taken into account as in our view it fails the policy tests) and to say so explicitly.
 - Whether or not to take into account the Travel Plan Monitoring Fee (which we have also recommended be not taken into account as it too in our view fails the policy tests) and to say so explicitly.
 - Whether to accept Req 32 as an exception to policy, and to explain why.
 - The effects on air quality from construction vehicle and on-site construction plant and vehicle emissions.
 - The effect of Brexit on future labour supply.
- 12.3.2. Subject to the above, the SoS is recommended:
- To make The Northampton Gateway Rail Freight Interchange Order 201X in the form attached at Appendix D to this Report.

APPENDICES

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APPENDIX A: THE EXAMINATION

APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the procedural decisions taken by the Examining Authority (ExA)

Date	Event
10 September 2018	Procedural Decision 1 Issue by the ExA of: • Draft Examination Timetable • Procedural Decisions • Notification of Hearings • Schedule of ExA's issues and questions relating to the draft Development Consent Order (dDCO)
9 October 2018	Preliminary Meeting
9 October 2018	Issue Specific Hearing 1 (ISH1) On the dDCO
10 October 2018	Open Floor Hearing 1 (OFH1)
17 October 2018	Procedural Decision 2 Issue by the ExA of: • Examination Timetable • Procedural Decisions • Notification of Hearings • The ExA's Written Questions
6 November 2018	Deadline 1 Deadline for receipt of: • Local Impact Reports from any local authorities • Statements of Common Ground (SoCG) requested by the ExA (except those requested for submission by Deadline 3)

Date	Event
	• Draft s106 Agreements and any similar Agreements and allied documents • Responses to the ExA's Written Questions • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Comments on updated application documents submitted by the Applicant before the Preliminary Meeting • Post-hearing submissions including written submissions of oral cases • Responses to any further information requested by the ExA for this deadline • Nominations of suggested locations and justifications for site inspections for consideration by the ExA • Notification of wish to attend an Accompanied Site Inspection (ASI) • Draft Itinerary to be provided by the Applicant for an ASI • Notification from any Affected Person of wish to speak at a Compulsory Acquisition Hearing • Notification of wish to speak at any subsequent Issue Specific Hearings (ISH)

Date	Event
	• Notification of wish to speak at a subsequent Open Floor Hearing (OFH) • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish to have future correspondence received electronically
20 November 2018	Deadline 2 Deadline for receipt of: • Revised dDCO from Applicant • Comments on Local Impact Reports • Comments on any SoCG submitted at Deadline 1 • Comments on WRs • Responses to comments on RRs • Comments on responses to the ExA's Written Questions • Comments on any additional information / submissions received by Deadline 1 • Responses to any further information requested by the ExA for this deadline
23 November 2018	Issue by the ExA of: • Notification of Hearings • Notification of ASI
30 November 2018	Deadline 3 Deadline for receipt of: • SoCG between: ◦ Applicant and Ashfield Land and Gazeley GLP

Date	Event
	○ Applicant, Ashfield Land and Gazeley GLP and Network Rail • Comments on the Applicant's revised dDCO • Comments on any additional information / submissions received by Deadline 2 • Responses to any further information requested by the ExA for this deadline
18 December 2018	Accompanied Site Inspection
19 December 2018	Issue Specific Hearing 2 (ISH2) on Environmental matters including Transport, Landscape & Visual, Ecology, Air Quality and Other Matters
20 December 2018	Issue Specific Hearing 3 (ISH3) on the dDCO
20 December 2018	Compulsory Acquisition Hearing 1 (CAH1)
8 January 2019	Deadline 4 Deadline for receipt of: • Comments on SoCG submitted for Deadline 3 • Any revised dDCO from the Applicant • Post-hearing submissions including written submissions of oral cases • Comments on any additional information / submissions received by Deadline 3 • Responses to any further information requested by the ExA for this deadline

Date	Event
5 February 2019	Publication by ExA of: • The ExA's Further Written Questions • The ExA's dDCO commentary
26 February 2019	Deadline 5 Deadline for receipt of: • Responses to Further Written Questions • Comments on the ExA's dDCO commentary • Comments on any additional information / submissions received by Deadline 4 • Responses to any further information requested by the ExA for this deadline
12 March 2019	Issue Specific Hearing 4 (ISH4) on Cumulative Impact and Interaction Issues
13 March 2019	Issue Specific Hearing 5 (ISH5) on the dDCO
13 March 2019	Compulsory Acquisition Hearing 2 (CAH2)
14 March 2019	Open Floor Hearing 2 (OFH2)
19 March 2019	Deadline 6 Deadline for receipt of: • Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report • Final s106 Agreements and any similar Agreements and allied documents

Date	Event
	• Final SoCG • Post-hearing submissions including written submissions of oral cases • Comments on responses to the ExA's Further Written Questions • Comments on any additional information / submissions received by Deadline 5 • Responses to any further information requested by the ExA for this deadline
	Deadline 7 Deadline for receipt of: • Comments on the Applicant's final dDCO • Comments on final s106 Agreements and any similar Agreements and allied documents • Comments on final SoCG • Comments on any additional information / submissions received by Deadline 6 • Responses to any further information requested by the ExA for this deadline
29 March 2019	Procedural Decision 3 Issue by the ExA of: • Change to Examination Timetable • Request for Further Information
3 April 2019	Deadline 8 Deadline for receipt of: • Responses to any further information requested by the ExA for this deadline

Date	Event
5 April 2019	Deadline 9 Deadline for receipt of: • Comments on responses to any further information requested by the ExA for Deadline 8
9 April 2019	Close of Examination

APPENDIX B: EXAMINATION LIBRARY

Northampton Gateway Rail Freight Interchange Examination Library

Updated – 21/06/2019

This Examination Library relates to the Northampton Gateway Rail Freight Interchange application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorized either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

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Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination	AS-xxx
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APP-232	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 1 Framework Travel Plan
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APP-253	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 22 Part 1 NSTM2 M1 J15 Northampton Gateway SRFI Local Model Validation Report
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APP-257	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 24 Appendix A Development Case Plots
APP-258	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 24 Appendix B Development Case with Mitigation Plots
APP-259	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 24 Appendix C Development Case with Mitigation Incremental Plots
APP-260	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 25 M1 J15 and J15A VISSIM Model Local Model Validation Report
APP-261	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 26 VISSIM Modelling Summary
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APP-264	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 29 Geometric Design Strategy Record A508 Route Upgrade
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APP-266	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 31 Stage 1 Road Safety Audit Response Report
APP-267	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 32 Environmental Statement Data Processing
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APP-284	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 49 A508 Blisworth Road Assessment Results
APP-285	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 50 A508 Road Bypass Northern Roundabout Assessment Results
APP-286	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 51 Blisworth Road Knock Lane Road Bypass Assessment Results
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APP-295	Doc 5.2 - Environmental Statement Appendix 12.1 TA Appendix 60 SFRI Access Opening Year Assessment Results
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APP-305	Doc 6.1 - Consultation Report Appendix 1 Non-Statutory Consultation Log
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APP-310	Doc 6.1 - Consultation Report Appendix 2E Parish Councils Email Stage 3 Process December 2017
APP-311	Doc 6.1 - Consultation Report Appendix 2F Letter to Heaton-Harris MP December 2016
APP-312	Doc 6.1 - Consultation Report Appendix 3A J15 Transport Working Group Meeting 4
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APP-314	Doc 6.1 - Consultation Report Appendix 4 Stage 1 Consultation Strategy Document (2016)
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APP-316	Doc 6.1 - Consultation Report Appendix 6A Section 42 Consultation Lists
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APP-319	Doc 6.1 - Consultation Report Appendix 7 Stage 1 Consultation Exhibition Boards 1-6
APP-320	Doc 6.1 - Consultation Report Appendix 7 Stage 1 Consultation Exhibition Boards 7-12
APP-321	Doc 6.1 - Consultation Report Appendix 8 Copy of the Comments Form for Stage 1 Consultation
APP-322	Doc 6.1 - Consultation Report Appendix 9 Stage 1 Section 47 Consultation Schedule of Responses
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APP-324	Doc 6.1 - Consultation Report Appendix 11 Update Newsletter (July 2017)
APP-325	Doc 6.1 - Consultation Report Appendix 12 Statement of Community Consultation August 2017

APP-326	Doc 6.1 - Consultation Report Appendix 13 SoCC Compliance Table
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APP-328	Doc 6.1 - Consultation Report Appendix 15 Map of Leaflet Distribution Area
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APP-338	Doc 6.1 - Consultation Report Appendix 18 Copy of Comments Form for Stage 2
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APP-340	Doc 6.1 - Consultation Report Appendix 19A Stage 2 Section 47 Consultation Schedule of Responses from Blisworth
APP-341	Doc 6.1 - Consultation Report Appendix 19B Stage 2 Section 47 Consultation Schedule of Responses from Collingtree
APP-342	Doc 6.1 - Consultation Report Appendix 19C Stage 2 Section 47 Consultation Schedule of Responses from Milton Malsor
APP-343	Doc 6.1 - Consultation Report Appendix 19D Stage 2 Section 47 Consultation Schedule of Responses from Roade
APP-344	Doc 6.1 - Consultation Report Appendix 19E Stage 2 Section 47 Consultation Schedule of Responses from Towcester
APP-345	Doc 6.1 - Consultation Report Appendix 20A Copy of Section 42 Consultation Letter (1)
APP-346	Doc 6.1 - Consultation Report Appendix 20B Copy of Section 42 Consultation Letter (2) (sent to those with an interest under highway only)
APP-347	Doc 6.1 - Consultation Report Appendix 21 Stage 2 Section 42 Consultation Schedule of Responses
APP-348	Doc 6.1 - Consultation Report Appendix 22 Site Notice Plan A
APP-349	Doc 6.1 - Consultation Report Appendix 22 Site Notice Plan B
APP-350	Doc 6.1 - Consultation Report Appendix 22 Site Notice Plan C
APP-351	Doc 6.1 - Consultation Report Appendix 22 Site Notice Plan D
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APP-354	Doc 6.1 - Consultation Report Appendix 22 Site Notice Plan G
APP-355	Doc 6.1 - Consultation Report Appendix 22A Site Notice Locations
APP-356	Doc 6.1 - Consultation Report Appendix 22B Site Notice Example
APP-357	Doc 6.1 - Consultation Report Appendix 23 Section 46 Notification to PINS
APP-358	Doc 6.1 - Consultation Report Appendix 24A Section 48 Press Notices
APP-359	Doc 6.1 - Consultation Report Appendix 24B Section 48 Press Notices
APP-360	Doc 6.1 - Consultation Report Appendix 24C Section 48 Press Notices
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APP-362	Doc 6.1 - Consultation Report Appendix 25 Stage 3 Consultation Leaflet (December 2017)
APP-363	Doc 6.1 - Consultation Report Appendix 26 Copy of Consultation Letter (1)
APP-364	Doc 6.1 - Consultation Report Appendix 26 Copy of Consultation Letter (2) (sent to those with an interest under the highway only)
APP-365	Doc 6.1 - Consultation Report Appendix 27 Stage 3 Site Notice Example
APP-366	Doc 6.1 - Consultation Report Appendix 28 Stage 3 Consultation Press Notice
APP-367	Doc 6.1 - Consultation Report Appendix 29A Section 42 Plus List Dec 2017
APP-368	Doc 6.1 - Consultation Report Appendix 29B Section 42 Prescribed Consultees Dec 2017
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APP-370	Doc 6.1 - Consultation Report Appendix 30B Stage 3 Section 42 Consultation Responses
APP-371	Doc 6.2 - Statutory Nuisance Statement
APP-372	Doc 6.3 - Report on European Sites
APP-373	Doc 6.4 - Heads of Terms - Planning Obligations
APP-374	Doc 6.5A - Summary of Proposals (Dec 2016)
APP-375	Doc 6.5B - Short Explanatory Document (Oct 2017)
APP-376	Doc 6.6 - Planning Statement
APP-377	Doc 6.7 - Rail Reports
APP-378	Doc 6.8 - Market Analysis Report
APP-379	Doc 6.9 - Design and Access Statement
APP-380	Doc 6.10 - Existing Highway Orders
APP-381	Doc 6.11 - Commitments Tracker
APP-382	Doc 7.1 - Statement of Common Ground Highways (Highways England)
APP-383	Doc 7.2 - Statement of Common Ground Drainage (Northamptonshire County Council)
APP-384	Doc 7.3 - Statement of Common Ground Geology Soil and Groundwater: (Environment Agency, South Northamptonshire District Council, Northamptonshire County Council, Natural England)

Adequacy of Consultation Responses	
AoC-001	Milton Keynes Council
AoC-002	Northampton Borough Council
AoC-003	Northamptonshire County Council
AoC-004	South Northamptonshire Council
AoC-005	Stratford-on-Avon District Council
Relevant Representations	
RR-001	Christopher Mair
RR-002	CPRE Northamptonshire
RR-003	Environment Agency
RR-004	Gregory Hall
RR-005	Guy Phelps
RR-006	Iain Spooner
RR-007	Jane Lawrence
RR-008	Jill Hope
RR-009	Maureen Marr
RR-010	Malcolm Brice
RR-011	Ruth O'Donagan
RR-012	Stuart Parsons
RR-013	Tina Arnold
RR-014	Colin Davidson
RR-015	Darren Gay
RR-016	Eric John Meakins
RR-017	Jo Durao
RR-018	Katie Spruels
RR-019	Lesley Marr
RR-020	Eva Mair
RR-021	Sarah Smith
RR-022	Pam Wright
RR-023	Shaun Hope
RR-024	Ashley Adams
RR-025	Eileen Lawson
RR-026	Gemma Jackson
RR-027	Kate Entwistle
RR-028	Kirk Trewin
RR-029	Robert Charles Mackintosh
RR-030	William Root
RR-031	Blisworth Parish Council
RR-032	David Major
RR-033	Gary Crook
RR-034	Gary Skilton
RR-035	Jacquelyn Jones
RR-036	Judith Mackintosh
RR-037	Katie Skilton
RR-038	Keith Davies
RR-039	Lucy Phelps
RR-040	Adam Woby

RR-041	Simon Jones
RR-042	Lyn Bird
RR-043	Shutlanger Parish Council
RR-044	Susan Bland
RR-045	Tessa Roff
RR-046	David Olsson
RR-047	Edmund James
RR-048	Felicity North
RR-049	Hayley Jelley
RR-050	Kate Rigby
RR-051	Louise Edwards
RR-052	Mike Walker
RR-053	Nicky Duncan
RR-054	Ray Maguire
RR-055	Richard Dimpleby
RR-056	Roshni Khari
RR-057	Simon Jelley
RR-058	Stephen Brown
RR-059	Susan Belone
RR-060	Terence Tapping
RR-061	Bedford Borough Council
RR-062	Clare Swords
RR-063	Colin Brown
RR-064	Declan John Waters
RR-065	Janet Brown
RR-066	Kenneth Hancock
RR-067	Marion Barlow
RR-068	Michael Ideson
RR-069	Michael O'Leary
RR-070	Mike Skidmore
RR-071	Monty Kutas
RR-072	Jane Pinnock
RR-073	Nigel Belford
RR-074	Patricia Hargreaves
RR-075	Roger Pinnock
RR-076	Tom McManus
RR-077	Tom Swords
RR-078	Amal Shah
RR-079	Brian Lewthwaite
RR-080	Christine Barrand
RR-081	Cindy Hancock
RR-082	Denise Donaldson
RR-083	Eve Botterill
RR-084	Frank Waterhouse
RR-085	Gary Rimmer
RR-086	Louise Wright
RR-087	Lynda Payton
RR-088	Stuart Johnston
RR-089	William Yule

RR-090	Adrian Bryan
RR-091	Cecilia Ella Muir
RR-092	Christian Mitchell
RR-093	Dr Andrew Gough
RR-094	Emma Allen
RR-095	Gary Talbot
RR-096	Geoff Rouse
RR-097	James Alistair Robertson Muir
RR-098	Karen Evans
RR-099	Kathryn Wills
RR-100	Kerry Moss
RR-101	L J Lifestyle Ltd
RR-102	M Baxter
RR-103	Pamela McManus
RR-104	Paul Jesson
RR-105	Peter Cosford
RR-106	Sally Cosford
RR-107	Stephen Roseblade
RR-108	Sue Draper
RR-109	Ben Sheard
RR-110	David Mair
RR-111	Dr Roger Birch
RR-112	E S Yule
RR-113	Elaine Mallock
RR-114	Fiona McKenzie
RR-115	Laura Collins
RR-116	Michelle Goodman-Harder
RR-117	Nicholas Bird
RR-118	Paul Heath
RR-119	Ruth Hemmingway
RR-120	Sue Hagon
RR-121	Amy Lynch
RR-122	David L Clarke
RR-123	Jacqueline Hall
RR-124	June Lovell
RR-125	Anita Tasker OBE
RR-126	Shane McDermott
RR-127	Stuart Burrows
RR-128	Christopher Woods
RR-129	Claire Cumberland
RR-130	David Bates
RR-131	Felicity Brady
RR-132	Jean Halcrow
RR-133	Joseph Swords
RR-134	Julia Sparks
RR-135	Kim Chapman
RR-136	Maddi
RR-137	Margaret Moss
RR-138	Tina Adams
RR-139	Paul Willington

RR-140	Peter James
RR-141	Richard Hartley
RR-142	S F J Danvers
RR-143	Steven Magorrian
RR-144	Stuart Brough
RR-145	Trevor Boucher
RR-146	Alistair Kneen
RR-147	Andrew Vincent
RR-148	Ann Summerling
RR-149	Chris Dancer
RR-150	Colin Newitt
RR-151	Gail Albrow
RR-152	Geoffrey Mellors
RR-153	Graham Meller
RR-154	Jane Hill
RR-155	Dorothy Mary Parsons on behalf of John Vivian Parsons
RR-156	Maragaret Denny
RR-157	Mark Crane-West
RR-158	Michael Davies
RR-159	Patricia Brittle
RR-160	Pauline Mellors
RR-161	Roger Charlton
RR-162	Sheila Charlton
RR-163	Stewart Brown
RR-164	The Hair Pavillion
RR-165	Wendy Herdman
RR-166	Alison Skillen
RR-167	Alan Hargreaves
RR-168	Carol Blake
RR-169	Charity Harrington
RR-170	Jane Pretorius
RR-171	John Buckley
RR-172	Kevin Hicks
RR-173	Lesley Anne Pyke
RR-174	Nick Blake
RR-175	Northampton Rail Users Group
RR-176	Rod Sellers on behalf of Parishes Against Pollution
RR-177	Phillip Thornton
RR-178	Robert Jeffery
RR-179	Robert Pyke
RR-180	Roy Lovell
RR-181	Simon Pope
RR-182	Stephanie Ashcroft
RR-183	Stuart Dean
RR-184	Trevor Pinfold
RR-185	V G Pinto
RR-186	William Davis
RR-187	Amanda Morton
RR-188	Anthony Lunch
RR-189	Carl Johnson

RR-190	Graig Griffith
RR-191	Jessica Griffith
RR-192	Faye Griffith
RR-193	Gordon Prestoungrange
RR-194	Henry Wills
RR-195	Irene Morton
RR-196	Elliot Wills
RR-197	John Farebrother
RR-198	Julian Hill
RR-199	Laura Wills
RR-200	Julian Wills
RR-201	Kerry Dar
RR-202	Leigh Essery
RR-203	Marian Paton
RR-204	Mark Anley
RR-205	Martyne Pearson
RR-206	Michelle Higgs
RR-207	Neil Jagger
RR-208	Nicola Wood
RR-209	Penny Howell
RR-210	Peter Bull
RR-211	Peter Scurr
RR-212	Philip Wood
RR-213	Susan Sumpton
RR-214	Terry Larkins
RR-215	William Griffith
RR-216	Alan North
RR-217	Andrew Warren
RR-218	Cadent Gas Limited
RR-219	Cameron Higgs
RR-220	Carol Jacoby
RR-221	Cecil Bottomley
RR-222	Daphne Jones
RR-223	David Wilson
RR-224	Elaine Clarke
RR-225	Haydn Clarke
RR-226	J Land
RR-227	Jack Dougan
RR-228	Lee Clarke
RR-229	Linda Underwood
RR-230	Mark Redding
RR-231	Mark Underwood
RR-232	Michael Jacoby
RR-233	Michael Smith
RR-234	Nicholas Bryans
RR-235	Paul Chambers
RR-236	Peter Hagon
RR-237	Peter Townsend
RR-238	Rajapha Sumpton
RR-239	Sarah Smith

RR-240	Sheila Fitchett
RR-241	Veronica Gutierrez
RR-242	Andrew Gough
RR-243	Carol Thorn
RR-244	Howard Elwick
RR-245	Michael Edwards
RR-246	Neil Douglas
RR-247	Adam Fox
RR-248	Andrew Newbery
RR-249	Chris Wray
RR-250	Graeme Cecil Joll
RR-251	Margaret Rosemary Joll
RR-252	Gwyneth Mair Jagger
RR-253	Heather Mair
RR-254	Jason Lynch
RR-255	Karla Brown
RR-256	Keith Robert Whitburn
RR-257	Lesley Goodship
RR-258	Lucy Watkins-Brady
RR-259	Matthew Taylor
RR-260	Michelle Fynan
RR-261	Clare Reece
RR-262	Nick Muir
RR-263	Ralph Baxter MBE
RR-264	Sandra O
RR-265	Simon Alan George Mitchell
RR-266	Alfred Thompson
RR-267	Anthony Brinkman
RR-268	Charles Fox
RR-269	Crispian Besley
RR-270	Denise Calder
RR-271	Glenn Nightingale
RR-272	Jonathan Moulton
RR-273	Kim Baish
RR-274	Louise Smith
RR-275	M P Pell
RR-276	Malcolm Deacon
RR-277	Nigel Chandler
RR-278	Patrick Barlow
RR-279	A P Walgate
RR-280	Carl Bullwright
RR-281	Charlotte Jackson
RR-282	Christopher Thompson
RR-283	David Gidden
RR-284	David Orr
RR-285	Diane Dorner
RR-286	Fiona Hooper
RR-287	Gina Key
RR-288	John Metcalfe
RR-289	Kristine Bullwright

RR-290	Leigh Mann
RR-291	Lesley Susan Sellers
RR-292	Linda Haigh
RR-293	Lyndsey Harvey
RR-294	Peter Harvey
RR-295	Rod Sellers
RR-296	Roger Laurence Tyler
RR-297	Rory Fraser
RR-298	Stephen Michael Blyth
RR-299	Stephen Rigby
RR-300	Stuart Jackson
RR-301	Zoey Wells
RR-302	L C Armstrong
RR-303	Andrew Eames
RR-304	Callum
RR-305	Carrie Thompson
RR-306	David Househam
RR-307	David Morel
RR-308	George Wood
RR-309	Heather Closier
RR-310	Heather Hudson
RR-311	Ian Hill
RR-312	Jeff Lewis
RR-313	Leah Barlow
RR-314	Leanne Snapes
RR-315	Mark Smith
RR-316	Milton Football Club
RR-317	Naomi Morel
RR-318	Neil Leete
RR-319	Neil Wright
RR-320	Paul Grubb
RR-321	Peter Shellard
RR-322	Richard Jay
RR-323	Rosemary Bird
RR-324	Ruth Thompson
RR-325	Terry Armstrong
RR-326	The Coal Authority
RR-327	Alan Andrews
RR-328	Adrian Hosey
RR-329	Affero Limited
RR-330	Carly Rouse
RR-331	Chris Heaton-Harris
RR-332	Daniel Marchant
RR-333	David Harvey
RR-334	Deborah Freund
RR-335	Dr Bridget Lewis
RR-336	Ean Freund
RR-337	Emma Langridge
RR-338	Gillian Anne Challis
RR-339	Jason Rouse

RR-340	Jo Gordon
RR-341	Katherine Finnegan
RR-342	Lorraine Kitchen
RR-343	Mark Vessey
RR-344	Nick Henry
RR-345	Paul Harris
RR-346	Peter Skinner
RR-347	Philip Couchman
RR-348	Robert John Scott
RR-349	Sharron Bland
RR-350	Alison Harvey
RR-351	Allan Danby
RR-352	Allen Ensby
RR-353	Angie Danby
RR-354	Hilary Bull
RR-355	John Pickup
RR-356	M A Glass
RR-357	Marian Morgan
RR-358	Martin Grosse
RR-359	R Glass
RR-360	R S Sayers
RR-361	Tanya Hughes-Haynes
RR-362	William John McLaren Marshall
RR-363	Ann Christie
RR-364	Christine Pinfold
RR-365	Harry Spruels
RR-366	Jack Spruels
RR-367	Jackie Beak
RR-368	Laura Curtress
RR-369	Mark Browning
RR-370	Paul Marchant
RR-371	Rebecca Marriott
RR-372	Sharon James
RR-373	Stephen Spruels
RR-374	Steve Ferguson
RR-375	Caroline Ewin
RR-376	Jane Ward
RR-377	John Exley
RR-378	Jonathan Murray
RR-379	Judith Nichols
RR-380	Marcus Arnold
RR-381	Marie Whitefield
RR-382	Mark Smith
RR-383	Marla Boulton
RR-384	Meg Haver
RR-385	Peter Anderson
RR-386	Rebecca Kok
RR-387	Rosemary Anne Cook
RR-388	Cheryl Whitburn
RR-389	Cllr Luke Graystone

RR-390	David Heron
RR-391	Helen Westwood
RR-392	John Calder
RR-393	Peter Harvey
RR-394	Phillip Hayward
RR-395	Roade Parish Council
RR-396	Rodney Young
RR-397	Susan Lowin
RR-398	Valerie Hayward
RR-399	Zoe Day
RR-400	Amanda O'Brien
RR-401	Annabel Bass
RR-402	Anthony Mallock
RR-403	Audrey Ramshaw
RR-404	Carol Pell
RR-405	Catherine Thompson
RR-406	Clare Edwards
RR-407	Colin Ramshaw
RR-408	Compton Paul Johnson
RR-409	Edward Colville
RR-410	Gillian Jaynes
RR-411	Gyllian Ash
RR-412	Hardingstone Parish Council
RR-413	Madeleine Skillen
RR-414	Martyn Guerin
RR-415	Mavis Brewer
RR-416	Michele Horton
RR-417	Peter Darby
RR-418	Rachel Heron
RR-419	Robert Thompson
RR-420	Sonia Chapman
RR-421	Wendy Steer
RR-422	J Hunt
RR-423	Anthony Hillier
RR-424	Brenda Jenks
RR-425	Carol Sarstedt-McCarthy
RR-426	Christine Marshall
RR-427	Daniel Harvey
RR-428	Frances Andrews
RR-429	Helen Bodfield
RR-430	Jean Packham
RR-431	Jodie Johnson
RR-432	June Hawkins
RR-433	Laura Harvey
RR-434	Les Draper Eames
RR-435	Mark Webb
RR-436	Nicky Chapman
RR-437	Northampton Ramblers
RR-438	Paulette Kennedy
RR-439	Peter Whitefield

RR-440	Richard Akers
RR-441	Richard Jenks
RR-442	Alan Gowland
RR-443	Anna Fox
RR-444	Chris Baker
RR-445	David Brogden
RR-446	Geraldine Jackson
RR-447	Hilary Bottrill
RR-448	Janet Winchester
RR-449	Linda Joy
RR-450	Nicola Richards
RR-451	P Luxton
RR-452	Paul Winchester
RR-453	Philip East
RR-454	R Stirk
RR-455	Rt Hon. Andrea Leadsom MP
RR-456	Sandra Morley
RR-457	Sarah Coyle
RR-458	Stuart Manson
RR-459	Diana Farebrother
RR-460	East Hunsbury Parish Council
RR-461	Elaine Gowland
RR-462	Graham Juffs
RR-463	Ian White
RR-464	Julie Reed
RR-465	Justine Gray
RR-466	Karen Hopkins
RR-467	Keith Harry
RR-468	Martyn Walker
RR-469	Brenda Jenks on behalf of Milton Malsor and Colling tree Women's Institute
RR-470	Miss L Duncan
RR-471	Sarah Sheard
RR-472	Shan Navaratnam
RR-473	Simon Duggleby
RR-474	Brian L Ash
RR-475	Alice Petherick
RR-476	Catherine Petherick
RR-477	Coln Bricher
RR-478	D W Marshall
RR-479	Isobel Petherick
RR-480	Stephen Petherick
RR-481	Karen Ross
RR-482	Mark Pyke
RR-483	Oscar Petherick
RR-484	Peter Lowe
RR-485	Robert Ross
RR-486	Roland White
RR-487	Steven Towell
RR-488	Stop Roxhill Northampton Gateway Action Group (SRNG)

RR-489	Victor Armstrong
RR-490	Annie Digby
RR-491	Chelsea McNeil
RR-492	Corinna Kerrou
RR-493	Elisabeth Carter
RR-494	Fiona Marshall
RR-495	Kevin Dupont
RR-496	Kevin Flynn
RR-497	Kyle Dupont
RR-498	Linda Green
RR-499	Lynn Brown
RR-500	Marion Flynn
RR-501	Nicholas Lowe
RR-502	Philip O'Brien
RR-503	Stuart Marshall
RR-504	Susan Hickling
RR-505	Tina Dupont
RR-506	Virginia Henley
RR-507	Amanda Jameson
RR-508	Angela Phelps
RR-509	Barbara Stagg
RR-510	C P Eads
RR-511	Colin Hicks
RR-512	Geoffrey Burrows
RR-513	Glenn Bass
RR-514	Ian Northover
RR-515	Jonathan Deeks
RR-516	Jonathan Hands
RR-517	Julia Smith
RR-518	June Baker
RR-519	Kay Diment
RR-520	Keith Collins
RR-521	Kimberly Deeks
RR-522	Mark Jameson
RR-523	Michael Baker
RR-524	Milton Malsor Parish Council
RR-525	Patricia White
RR-526	Penelope Macadam
RR-527	Philippa Bowden
RR-528	S P Rooney
RR-529	Sandra Nagy
RR-530	Sarah Borondy
RR-531	Sarah Chalk
RR-532	Sharon Elizabeth Nola
RR-533	Vicki Eads
RR-534	M S Owen
RR-535	Alison Turley
RR-536	Alistair Jepson
RR-537	Andrew Bodman
RR-538	Barry Talbot

RR-539	Catherine Muir
RR-540	Colin L Neal
RR-541	G Binks
RR-542	Guellec-Digby & Co Limited
RR-543	Helen Shoemark
RR-544	Hilary Spurrier
RR-545	Local Enterprise Limited
RR-546	Martine Lunch
RR-547	Fritz Kok
RR-548	Roger Abbiss
RR-549	Sarah Jenkins
RR-550	Timothy Rouse
RR-551	Tricia Ducker
RR-552	A Larder
RR-553	Alan Sharp
RR-554	Alastair Inglis
RR-555	Alex Dillion
RR-556	Avril White
RR-557	Barbara Dillon
RR-558	Beverley
RR-559	Collingtree Parish Council
RR-560	Edward Dennis
RR-561	Eunice Humphrey
RR-562	Jon Mcconnell
RR-563	Julia Schumacher
RR-564	Keith Parker
RR-565	Lynn McCallum
RR-566	Madeleine Clarkson
RR-567	Margaret Preston
RR-568	Alan Lewis
RR-569	Mary Lewis
RR-570	Clare East
RR-571	M C Heath
RR-572	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited
RR-573	Nicola Hall
RR-574	Northampton Borough Council
RR-575	Patricia Parker
RR-576	Paul Dillon
RR-577	Peter Humphrey
RR-578	Avril White on behalf of Rebecca White
RR-579	Rosemary Sharp
RR-580	Tamsin Sapwell
RR-581	Tracey Davenport
RR-582	Tracey Gould
RR-583	William Sellar
RR-584	Adam Freund
RR-585	Adele Andrews
RR-586	Andrea Forbes
RR-587	Anna-Marie Freund

RR-588	Beryl Palmer
RR-589	Brian Sumpton
RR-590	Chris Wright
RR-591	David Featherstone
RR-592	David Williams
RR-593	Debbie Jackson
RR-594	Dorothy Mary Taylor
RR-595	Ella Redding
RR-596	Gaynor Louise Swithenby
RR-597	Gloria Wells
RR-598	Hayley Palmer
RR-599	James Sharp
RR-600	James Tyrrell
RR-601	Jane Keys
RR-602	Jeremy Forskitt
RR-603	Jess Osborne
RR-604	Jo H
RR-605	Joanne Freund
RR-606	Julie Strickland
RR-607	Kate Attwood
RR-608	Katie Redding
RR-609	Katy Treharne
RR-610	Kelly Earl
RR-611	Kerry Palmer
RR-612	Kevin Summerfield
RR-613	Antony Brinkman on behalf of Laurie Brinkman
RR-614	Linda Forskitt
RR-615	Lorna Hooper
RR-616	Lucy Harris
RR-617	Mark Strickland
RR-618	Mellissa Startin
RR-619	Michael Leszczyn
RR-620	Berrys Chartered Surveyors on behalf of Mr Anthony John and Mrs Gillian Bament
RR-621	Sarah Irving
RR-622	Natural England
RR-623	Owen Coop
RR-624	Peter Heffron
RR-625	Philip Fruend
RR-626	Public Health England
RR-627	Quinton Parish Council
RR-628	Sarah Heffron
RR-629	Sarah Sharp
RR-630	Simon Ager
RR-631	Henry H Bletsoe and Son LLP on behalf of Stuart Dunkley
RR-632	Vera Vincent
RR-633	West Hunsbury Parish Council
RR-634	Samantha Johnstone
RR-635	Abigael Champion
RR-636	Allan Heath

RR-637	Alliance Foster Care
RR-638	Turley on behalf of Ashfield Land Management Limited
RR-639	Beryl Andrews
RR-640	Charles Fitzroy
RR-641	Claire Robertson
RR-642	David Wells
RR-643	Diana FitzRoy
RR-644	Elissa Tennant-Brown
RR-645	Turley on behalf of Gazeley GLP Northampton S.A.R.L
RR-646	Gill Featherstone
RR-647	Highways England
RR-648	J Fisher
RR-649	James Newbould
RR-650	Jane Mills
RR-651	Joanne Williams
RR-652	Joseph T Wroczynski
RR-653	June Edwards
RR-654	Justin Clements
RR-655	Katherine Featherstone
RR-656	Kathleen Spokes
RR-657	Linda Roseblade
RR-658	Louisa Woby
RR-659	Marianne Crisp
RR-660	Mark Baker
RR-661	Mike Wheeler
RR-662	Neil Mcconchie
RR-663	Nicolette Sharman
RR-664	Pauline Green
RR-665	Robin Bernard Flight
RR-666	Rugby Rail Users Group
RR-667	Sean Kukula
RR-668	Sharon Connell
RR-669	Stoke Bruerne Parish Council
RR-670	Tim Knights
RR-671	Victoria Amies
RR-672	Jasbir Kaur on behalf of Warwickshire County Council
RR-673	Winterfields Property Limited
RR-674	Andrew Featherstone
RR-675	Anne Rackham
RR-676	Bev Smith
RR-677	Carol Coppock
RR-678	Catherine Gunn
RR-679	Courteenhall Parish Council
RR-680	Darren Davis
RR-681	David John Coppock
RR-682	David Pennington
RR-683	Geraldine Morris
RR-684	Gillian S March
RR-685	Goffrey Middleton
RR-686	Hilary Crane

RR-687	James Wood
RR-688	Jamie Cooke
RR-689	Jayne Watson-Jones
RR-690	Kevin Darby
RR-691	Kirsten Ingram
RR-692	Laura Fearey
RR-693	Linda Francis
RR-694	Martin Entwistle
RR-695	Eric Warner
RR-696	S Bunting
RR-697	L Bunting
RR-698	Miss L Stinson on behalf of Mrs M Stinson
RR-699	Marian Barber
RR-700	R V L Blyth
RR-701	Myra Inglis
RR-702	Nadja Kujanen
RR-703	Philip FitzMorris
RR-704	Richard Oldcorn
RR-705	Rosemary Mccarthy
RR-706	Ruth Hazelgrove
RR-707	Sandra Joyce Summerfield
RR-708	Sheila Hoy
RR-709	Stuart Shrubbs
RR-710	Tracy Strange
RR-711	Trevor Morley
RR-712	Valerie Koch
RR-713	Wendy Harrison-Drake
RR-714	William Spokes
RR-715	Adrian Bottrill
RR-716	Alan Brittle
RR-717	Alan Whittaker
RR-718	Alison Wood
RR-719	Amanda Mantle
RR-720	Andrew Bailey
RR-721	Andrew Irving
RR-722	Andrey Umerski
RR-723	Anglian Water Services Limited
RR-724	Ann Husbands
RR-725	Anna Murby
RR-726	Barbara Perry
RR-727	Barry Steer
RR-728	Brooke Vargyas
RR-729	Cat Murray
RR-730	Catherine Blyth
RR-731	Charlotte Househam
RR-732	Charlotte Mackaness
RR-733	Christine Statham
RR-734	Claire Pindar
RR-735	Claire Williams
RR-736	Colin Bichener

RR-737	D Nola
RR-738	Darren Cook
RR-739	David Wash
RR-740	Dawn Bluck
RR-741	Dean Chapman
RR-742	Dr John P Davis
RR-743	Edward Gwilliam
RR-744	Edward Partridge
RR-745	Elaine Reagon
RR-746	Elizabeth Tilley
RR-747	Elizabeth Wilkinson
RR-748	Emma Grayson
RR-749	Geoffrey Read
RR-750	Georgina Bayliss
RR-751	Geraldine Hastings
RR-752	Helen Reynolds
RR-753	Hilary Poole
RR-754	Hilary Rowe
RR-755	Hugh M Davenport
RR-756	Ian James
RR-757	Ian Mann
RR-758	Inge Hijink
RR-759	Isabelle Gould
RR-760	Ivan Good
RR-761	Ivor Evans
RR-762	Jacqueline Anderson
RR-763	Jacqueline Dowdells
RR-764	James Reynolds
RR-765	Janet Carlin
RR-766	Jean Balderstone
RR-767	Jemma Bracher
RR-768	Jenni Niles
RR-769	Jennifer Blyth
RR-770	Jill Holden
RR-771	Joan Wood
RR-772	Jody Calcott
RR-773	Julia Davey
RR-774	Karen Wharfe
RR-775	Katherine Freeman
RR-776	Kathey Bailey
RR-777	Laura Davis
RR-778	Laura Oldcorn
RR-779	Laura Freund
RR-780	Leanne Pratt-Massey
RR-781	Leon Kimpton
RR-782	Linda Rogers
RR-783	Louise Edwards
RR-784	Madeline Stewart
RR-785	Mandi Austin
RR-786	Mark Pindar

RR-787	Matt Gannon
RR-788	Melanie Henwood
RR-789	Berrys Chartered Surveyors on behalf of Messrs AW, W & R Irlam
RR-790	Michael Jenkins
RR-791	Michael Sweeting
RR-792	Miguel Guedes
RR-793	Moirra Hackett
RR-794	Mr Kirkup
RR-795	Karen Smith
RR-796	Teresa Caple
RR-797	Myles Maher
RR-798	Neil Murray
RR-799	Niall Auckland
RR-800	Nicholas Discombe
RR-801	Nick Lemmon
RR-802	Nick Paul
RR-803	Nicola Davis
RR-804	Nicola Strang Campion
RR-805	Nina Kaler
RR-806	Noel Springett-Mchugh
RR-807	Paul E Habgood
RR-808	Paul McNally
RR-809	Pauline Talbot
RR-810	Penny Steel
RR-811	Peta Machin-Birch
RR-812	Peter Bullock
RR-813	Peter Colak
RR-814	Peter Edwards
RR-815	Peter McCallum
RR-816	Peter Wilkinson
RR-817	Philippa Louise Wright
RR-818	Raymond Miller
RR-819	Robert Garrod
RR-820	Rowland Tapp
RR-821	Roy Sparks
RR-822	Sandra McNally
RR-823	Sarah Brown
RR-824	Sarah Bullock
RR-825	Scott Bracher
RR-826	See Tickets
RR-827	Sharon Mackenzie
RR-828	Sharon Moulton
RR-829	Sharon Wells
RR-830	Siobhan Auckland
RR-831	Steve Miller
RR-832	Steve Springett-McHugh
RR-833	Susan Chapman
RR-834	Susan King
RR-835	Tara Osborne

RR-836	Terri Moore
RR-837	Tim Godfrey
RR-838	Tony Cumberland
RR-839	Wendy Grace
RR-840	B Binks
RR-841	Brian Mayland
RR-842	C Young
RR-843	Diane Collins
RR-844	E Anderson
RR-845	M A Hughes
RR-846	Robert Miller
RR-847	Roger Harris
RR-848	Cllr Robert (Bob) Atkinson
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Notice of Appointment of Examining Authority
PD-005	Rule 6 Letter
PD-006	Rule 8 letter
PD-007	Examining Authority's Written Questions
PD-008	Appointment of Examining Authority Notice of Amendment to Panel Membership
PD-009	Examining Authority Commentary on the draft Development Consent Order (dDCO) and Schedule of Questions
PD-010	Further Written Questions
PD-011	Rule 13 Letter - Notification of Hearings for March 2019
PD-012	Rule 8(3) and Rule 17 letter - Change to the Examination Timetable and request for further information
PD-013	Notification regarding close of examination (s99)
Additional Submissions	
AS-001	Roxhill (Junction 15) Limited - Section 56, Regulation 8 and Regulation 16 Notice
AS-002	Roxhill (Junction 15) Limited - Section 56 and Regulation 9
AS-003	Historic England Additional Submission accepted at the discretion of the Examining Authority
AS-004	Roxhill (Junction 15) Limited Doc 2.12 Location Plan. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-005	Roxhill (Junction 15) Limited Doc 3.1A Draft Development Consent Order (DCO) (Clean). Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-006	Roxhill (Junction 15) Limited Doc 7.5 Highways Statement of Common Ground with Northamptonshire County Council. Additional Submission accepted at the discretion of the Examining Authority

AS-007	Roxhill (Junction 15) Limited Doc 1.4B Document List. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-008	Roxhill (Junction 15) Limited Doc 2.1 Land Plans Key Plan. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-009	Roxhill (Junction 15) Limited Doc 2.1F Land Plans Sheet 6. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-010	Roxhill (Junction 15) Limited ES Figure 2.1 Parameters Plan. Revised Application document. Accepted at the discretion of the Examining Authority
AS-011	Roxhill (Junction 15) Limited ES Figure 10.1 Heritage Receptors. Revised Application document. Accepted at the discretion of the Examining Authority
AS-012	Roxhill (Junction 15) Limited Doc 6.3A Report on European Sites. Revised Application document. Accepted at the discretion of the Examining Authority
AS-013	Roxhill (Junction 15) Limited ES Figure 2.3 Main Site Phasing Plan. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-014	Roxhill (Junction 15) Limited Doc 1.4B Document List. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-015	Roxhill (Junction 15) Limited Doc 2.3C Access and Rights of Way Plans Sheet 3. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-016	Roxhill (Junction 15) Limited Doc 7.4 Water Statement of Common Ground with Anglian Water. Additional Submission accepted at the discretion of the Examining Authority
AS-017	Roxhill (Junction 15) Limited Letter to the Planning Inspectorate in response to s51 advice. Additional Submission accepted at the discretion of the Examining Authority
AS-018	Roxhill (Junction 15) Limited Doc 2.1B Land Plans Sheet 2. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-019	Roxhill (Junction 15) Limited Doc 2.1D Land Plans Sheet 4. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-020	Roxhill (Junction 15) Limited Doc 3.4 Development Consent Order (DCO) Tracker. Additional Submission accepted at the discretion of the Examining Authority
AS-021	Roxhill (Junction 15) Limited Doc 3.1A Draft Development Consent Order (DCO) (Tracked). Revised Application document. Additional Submission accepted at the discretion of the Examining Authority

AS-022	Roxhill (Junction 15) Limited Doc 1.4A Document List. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-023	Roxhill (Junction 15) Limited Applicant Response to s55 checklist - minor errors and omissions. Additional Submission accepted at the discretion of the Examining Authority
AS-024	Roxhill (Junction 15) Limited ES Figure 2.2 Phasing Plan. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-025	Roxhill (Junction 15) Limited Responses to the points made in Table 1 of Annex G to the Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-026	Roxhill (Junction 15) Limited Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-027	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-028	Dr Andrew Gough Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-029	Natural England Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-030	ESP Utilities Group Ltd Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-031	Northamptonshire County Council and South Northamptonshire District Council Additional Submission - Accepted at the discretion of the Examining Authority
AS-032	Stephen Blyth Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-033	Addleshaw Goddard LLP on behalf of Network Rail Response to Rule 6 letter - Accepted at the discretion of the Examining Authority
AS-034	Andrea Leadsom MP Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-035	Paul Minton Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-036	Alastair Inglis on behalf of Roxhill Northampton Gateway Action Group Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority
AS-037	ESP Utilities Group Ltd Response to Rule 6 Letter - Accepted at the discretion of the Examining Authority

AS-038	Roxhill (Junction 15) Limited Additional submission - Applicant's response to the ExA's questions raised in respect of the DCO accepted at the discretion of the Examining Authority
AS-039	Roxhill (Junction 15) Limited Doc 1.3A Guide to Application. Revised Application document - Accepted at the discretion of the Examining Authority
AS-040	Roxhill (Junction 15) Limited Additional Submissions - Accepted at the discretion of the Examining Authority. Doc 8.13 Updated Cumulative Impact Assessment with Rail Central
AS-041	Stephen Blyth Additional Submissions - Accepted at the discretion of the Examining Authority
AS-042	Addleshaw Goddard LLP on behalf of Network Rail (NR) Additional submission - Accepted at the discretion of the Examining Authority
AS-043	Mark Redding Additional submission - Accepted at the discretion of the Examining Authority
AS-044	Ashfield Land Limited and Gazeley GLP Northampton s.à.r.l Additional submission - Accepted at the discretion of the Examining Authority
AS-045	Natural England Additional Submission - Accepted at the discretion of the Examining Authority
AS-046	Marcus Blake on behalf of W Irlam (Stoke Plain) Limited, Anthony Irlam and Anthony and Gillian Bament Additional Submission - Accepted at the discretion of the Examining Authority
AS-047	Roxhill (Junction 15) Limited Doc 5.2 Environmental Statement Appendix 2.1 Updated Construction and Environmental Management Plan (CEMP) (Tracked). Revised Application Document. Additional Submission - Accepted at the discretion of the Examining Authority
AS-048	Roxhill (Junction 15) Limited Doc 5.2 Environmental Statement Appendix 2.1 Updated Construction and Environmental Management Plan (CEMP) (Clean). Revised Application Document. Additional Submission - Accepted at the discretion of the Examining Authority
AS-049	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority. Doc 7.17A Statement of Common Ground (SoCG) with Rail Central (Ashfield Land and Gazeley GLP Northampton s.a.r.l) (signed)
AS-050	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority. Doc 7.1D Further Statement of Common Ground (SoCG) with Highways England

AS-051	Roxhill (Junction 15) Limited Doc 2.4P – Highways Plans Long Sections Sheet 3 of 6. Additional Submission – Accepted at the discretion of the Examining Authority
AS-052	Roxhill (Junction 15) Limited Doc 2.1D Land Plans Sheet 4. Revised Application document. Additional Submission – Accepted at the discretion of the Examining Authority
AS-053	Roxhill (Junction 15) Limited Doc 7.5B – Highways Statement of Common with Northamptonshire County Council. Additional Submission - Accepted at the discretion of the Examining Authority
AS-054	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority. Covering Letter to PINS 8.2.19
AS-055	Roxhill (Junction 15) Limited Doc 2.7C - Speed Limit Plans Sheet 3 of 4. Additional Submission – Accepted at the discretion of the Examining Authority
AS-056	Roxhill (Junction 15) Limited Doc 4.3A Book of Reference (Clean). Additional Submission – Accepted at the discretion of the Examining Authority
AS-057	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority
AS-058	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority. Doc 7.11 Statement of Common Ground (SoCG) with South Northamptonshire Council
AS-059	Roxhill (Junction 15) Limited Additional Submission - Accepted at the discretion of the Examining Authority. Doc 8.16 Applicants response to Examining Authority's (ExA) points on Doc 6.4A Draft Section 106 Agreement
AS-060	Roxhill (Junction 15) Limited Doc 4.3A Book of Reference (Tracked). Additional Submission – Accepted at the discretion of the Examining Authority
AS-061	Roxhill (Junction 15) Limited Doc 2.5C - Highways Classification Plans Sheet 3 of 4. Additional Submission – Accepted at the discretion of the Examining Authority
AS-062	Roxhill (Junction 15) Limited Doc 2.1 Land Plans Key Plan. Revised Application document. Additional Submission accepted at the discretion of the Examining Authority
AS-063	Roxhill (Junction 15) Limited Doc 2.4D – Highways Plans General Arrangement Sheet 4 of 6. Additional Submission – Accepted at the discretion of the Examining

AS-064	Roxhill (Junction 15) Limited Additional Submission – Accepted at the discretion of the Examining Authority. Covering Letter to PINS 11.2.19
AS-065	Roxhill (Junction 15) Limited Doc 2.3D - Access and Rights of Way Plans Sheet 4 of 5. Additional Submission . Accepted at the discretion of the Examining Authority
AS-066	Roxhill (Junction 15) Limited Doc 2.1B – Land Plan Sheet 2 of 6. Additional Submission – Accepted at the discretion of the Examining Authority
AS-067	Network Rail Additional Submission – Accepted at the discretion of the Examining Authority. Response to the Agendas for ISH4 and ISH5
AS-068	Ashfield Land Limited and Gazeley Northampton s.a.r.l Additional Submission – Accepted at the discretion of the Examining Authority. Request submitted by Ashfield Land for a deferment to the Preliminary Meeting for the Rail Central application
AS-069	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority
AS-070	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Update in respect of Northampton Gateway's Technical Note "Rail Central Footpath Interface" prior to ISH4. Additional Submission Accepted at the discretion of the Examining Authority
AS-071	Roxhill (Junction 15) Limited Applicant response to Draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority
AS-072	Northampton Rail Users Group Additional Submission – Accepted at the discretion of the Examining Authority
AS-073	Northampton Rail Users Group NRUG clarification to Doc 8.3 and submission on rail capacity, assessment and EIA compliance. Additional Submission – Accepted at the discretion of the Examining Authority
AS-074	South Northamptonshire Council Update in relation to draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority
AS-075	Network Rail Further update in relation to draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority
AS-076	Northampton Rail Users Group Mayor Transport Strategy. Additional Submission – Accepted at the discretion of the Examining Authority
AS-077	Roxhill (Junction 15) Limited Update in relation to draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority
AS-078	Network Rail Update in relation to draft Requirement 32. Additional Submission – Accepted at the discretion of the Examining Authority

AS-079	Cadent Gas Limited Additional Submission – Accepted at the Examining Authority’s discretion. Withdrawal of Relevant Representation
AS-080	Henry H Bletsoe and Son LLP on behalf of Stuart Dunkley Additional submission – Accepted at the Examining Authority’s discretion. Withdrawal of objection.
Events and Hearings	
Preliminary Meeting, Open Floor Hearing of 9 October and 10 October 2018	
EV-001	Preliminary Meeting Note
EV-002	Recording of Preliminary Meeting on 9 October 2018
EV-003	Recording of Issue Specific Hearing (ISH1) on the draft DCO on 9 October 2018
EV-004	Recording of Open Floor Hearing on 10 October 2018
EV-005	Note of Unaccompanied Site Inspection – 10 October 2018
EV-006	Notification of Hearings and Accompanied Site Inspection (ASI) for December 2018
EV-007	Accompanied Site Inspection 18 December 2018
EV-008	Issue Specific Hearing 19 December 2018 Hearing agenda for ISH2 on Environmental Matters
EV-009	Issue Specific Hearing 20 December 2018 Hearing agenda for ISH3 on draft Development Consent Order
EV-010	Compulsory Acquisition Hearing 20 December 2018 Hearing agenda for CAH
EV-011	Examining Authority Confirmation and compliance document - circulated at ISH3
EV-012	Examining Authority Points on the s.106 agreement Document 6.4 - circulated at ISH3
EV-013	Issue Specific Hearing 12 March 2019 Hearing agenda for ISH4 on cumulative and interaction issues
EV-014	Issue Specific Hearing 13 March 2019 Hearing agenda for ISH5 on draft Development Consent Order
EV-015	Compulsory Acquisition Hearing 13 March 2019 Hearing agenda for CAH
EV-016	Open Floor Hearing 14 March 2019 Hearing agenda for OFH
EV-017	Action Points requested by the Examining Authority arising from ISH4 on 12 March 2019
EV-018	Action Points arising from the Issue Specific Hearing 5 (ISH5) on 13 March 2019
EV-019	Actions Points arising from the Compulsory Acquisition Hearing 2 (CAH2) on 13 March 2019
EV-020	Roxhill (Junction 15) Limited Requested by the Examining Authority to inform ISH4. Annotated versions of Figure 1 to Technical Note 13 (Appendix 3 of the updated Cumulative Impact Assessment (Document 8.13)
EV-021	Roxhill (Junction 15) Limited Requested by the Examining Authority to inform ISH4. Annotated versions of Figure 2 to Technical Note 13 (Appendix 3 of the updated Cumulative Impact Assessment (Document 8.13)

EV-022	Recording of Compulsory Acquisition Hearing 2 (CAH2) - 13 March 2019
EV-023	Recording of Open Floor Hearing 2 (OFH2) - 14 March 2019
EV-024	Recording of Issue Specific Hearing 2 (ISH2) - Environmental Matters Part 1 - 19 December 2018
EV-025	Recording of Issue Specific Hearing 2 (ISH2) - Environmental Matters Part 2 - 19 December 2018
EV-026	Recording of Issue Specific Hearing 3 (ISH3)- Draft Development Consent Order (dDCO) - 20 December 2018
EV-027	Recording of Compulsory Aquisition Hearing (CAH) - 20 December 2018
EV-028	Recording of Issue Specific Hearing 4 (ISH4) - AM Session - 12 March 2019
EV-029	Recording of Issue Specific Hearing 4 (ISH4) - PM Session - 12 March 2019
EV-030	Recording of Issue Specific Hearing 5 (ISH5) - 13 March 2019
Representations	
Deadline 1 – 6 November 2018 • Written Representations • Responses to ExA's first written Questions • Local Impact Reports • Statements of Common Ground • Other submissions	
REP1-001	Roxhill (Junction 15) Limited Covering Letter
REP1-002	Roxhill (Junction 15) Limited Doc 1.4C Document List
REP1-003	Roxhill (Junction 15) Limited
	Doc 6.4A Draft Section 106 Agreement
REP1-004	Roxhill (Junction 15) Limited Doc 6.8A Revised Market Analysis Report
REP1-005	Roxhill (Junction 15) Limited Doc 7.1A Addendum Highways Statement of Common Ground (SoCG) with Highways England
REP1-006	Roxhill (Junction 15) Limited Doc 7.1B Smart Motorways Statement of Common Ground (SoCG) with Highways England
REP1-007	Roxhill (Junction 15) Limited Doc 7.1C DCO Drafting with Highways England
REP1-008	Roxhill (Junction 15) Limited Doc 7.4A - Addendum Statement of Common Ground (SoCG) with Anglian Water (DCO Drafting and Water Frame Directive)
REP1-009	Roxhill (Junction 15) Limited Doc 7.5A -Highways Addendum SoCG with Northamptonshire County Council
REP1-010	Roxhill (Junction 15) Limited Doc 7.6 Statement of Common Ground (SoCG) with Cadent Gas Limited
REP1-011	Roxhill (Junction 15) Limited Doc 7.7 DCO Drafting and Water Framework Directive Statement of Common Ground (SoCG) with Northamptonshire County Council

REP1-012	Roxhill (Junction 15) Limited Doc 7.8 Archaeology SoCG (agreed but not signed by Northampton County Council)
REP1-013	Roxhill (Junction 15) Limited Doc 7.9 Rugby Parkway Statement of Common Ground with Warwickshire County Council
REP1-014	Roxhill (Junction 15) Limited Doc 7.10 Statement of Common Ground with Northampton Borough Council (Various Matters)
REP1-015	Roxhill (Junction 15) Limited Doc 7.12 Water Framework Directive and DCO Drafting Statement of Common Ground (SoCG) with Environment Agency
REP1-016	Roxhill (Junction 15) Limited Doc 7.13 - Rail Statement of Common Ground (SoCG) with Network Rail
REP1-017	Roxhill (Junction 15) Limited Doc 7.14 Letter received 2 November 2018 and Draft Statement of Common Ground (SoCG) with Historic England
REP1-018	Roxhill (Junction 15) Limited Doc 7.15 Ecology and Biodiversity Statement of Common Ground (SoCG) with Natural England
REP1-019	Roxhill (Junction 15) Limited Doc 8.1 Post Hearing Submissions (ISH1)
REP1-020	Roxhill (Junction 15) Limited Doc 8.2 - Responses to the ExA's Written Questions (Part 1)
REP1-021	Roxhill (Junction 15) Limited Deadline 1 Submission - Doc 8.2 Responses to the ExA's Written Questions (Part 2)
REP1-022	Roxhill (Junction 15) Limited Doc 8.3 Comments on Relevant Representations (RR)
REP1-023	Roxhill (Junction 15) Limited
	Doc 8.4 Statement of Common Ground (SoCG) Update and Statement of Commonality 6 November 2018
REP1-024	Roxhill (Junction 15) Limited Doc 8.5 Draft S106 Confirmation and Compliance Document
REP1-025	Roxhill (Junction 15) Limited Nominations of suggested locations and justifications for site inspections for consideration by the ExA
REP1-026	Evelyn Jarvis Written Representation
REP1-027	Lynn McCallum Written Representation
REP1-028	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Written Summary of Oral Submission made at DCO ISH1
REP1-029	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Written Representation
REP1-030	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Written Representation Appendices 1 - 9
REP1-031	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Written Representation Appendices 10 - 14
REP1-032	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Summary of Written Representation
REP1-033	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Responses to the ExA's Written Questions

REP1-034	Northamptonshire County Council Responses to the ExA's Written Questions
REP1-035	Northamptonshire County Council Written and Summary Representations
REP1-036	Northamptonshire County Council Local Impact Report
REP1-037	South Northamptonshire Council Local Impact Reports
REP1-038	South Northamptonshire Council Responses to the ExA's Written Questions
REP1-039	South Northamptonshire Council Written Representation
REP1-040	Collingtree Parish Council Written Representation
REP1-041`	Brenda Jenks Written Representation
REP1-042	Christine Pinfold Written Representation
REP1-043	Margaret Denny Written Representation
REP1-044	Pam McManus Written Representation
REP1-045	Tom McManus Written Representation
REP1-046	Christopher Mair Written Representation
REP1-047	Vivian Blyth Written Representation
REP1-048	S M Blyth Written Representation
REP1-049	Ruth Thompson Written Representation
REP1-050	Addleshaw Goddard LLP on behalf of Network Rail (NR) Responses to the ExA's Written Questions
REP1-051	Addleshaw Goddard LLP on behalf of Network Rail (NR) Summary and Written Representation
REP1-052	Campaign to Protect Rural England Summary and Written Representations
REP1-053	Rebecca Kok Written Representation
REP1-054	Stop Roxhill Northampton Gateway Action Group (SRNG) Written Representation
REP1-055	Mair Jagger Written Representation
REP1-056	Neil Jagger Written Representation
REP1-057	Barry Steer Written Representation
REP1-058	Wendy Steer Written Representation
REP1-059	Chris Heaton-Harris MP Written Representation
REP1-060	Andrew Bodman Post-hearing submissions

REP1-061	Andrew Bodman Responses to the ExA's Written Questions
REP1-062	Andrew Bodman Nominations of suggested locations and justifications for site inspections for consideration by the ExA
REP1-063	Andrew Bodman Summary and Written Representations
REP1-064	Caroline Ewin Written Representation
REP1-065	Dr Andrew Gough Written and Summary of Representations
REP1-066	Tony Hilier Written Representation
REP1-067	Richard Jenks Written Representation
REP1-068	Lyn Bird Written Representation
REP1-069	Jemma Bracher Written Representation
REP1-070	Felicity Ann North Written Representation
REP1-071	Katie Redding Written Representation
REP1-072	E Shirley Yule Written Representation
REP1-073	Valarie Hayward Written Representation
REP1-074	Colin Davidson Written Representation
REP1-075	Crispian Besley Written Representation
REP1-076	Robert Pyke Written Representation
REP1-077	Declan Waters Written Representation
REP1-078	Stuart Burrows Written Representation
REP1-079	Blisworth Parish Council Written and Summary of Representations
REP1-080	James Wood Written Representation
REP1-081	Trevor Pinfold Written Representation
REP1-082	Phillip Hayward Written Representation
REP1-083	Quinton Parish Council Written Representation
REP1-084	West Hunsbury Parish Council Written Representation
REP1-085	East Hunsbury Parish Council Written Representation
REP1-086	The Rt Hon. Andrea Leadsom MP Notification of wish to attend Site Inspection and Open Floor Hearing

REP1-087	The Rt Hon. Andrea Leadsom MP Written and Summary Representations
REP1-088	Northampton Borough Council Written Representation
REP1-089	Northampton Borough Council Local Impact Report
REP1-090	Rod Sellers Written Representation
REP1-091	Rod Sellers Nominations of suggested locations and justifications for site inspections for consideration by the ExA
REP1-092	Northampton Rail Users Group Summary and Written Representations
REP1-093	Sarah Chalk Written Representation
REP1-094	Wendy Herdman Written Representation
REP1-095	Alan Hargreaves Written Representation
REP1-096	Sharon Nola Written Representation
REP1-097	Dino Nola Written Representation
REP1-098	Chris Eads Written Representation
REP1-099	Anglia Water Services Limited Written Representation and Responses to the ExA's Written Questions
REP1-100	Royal Mail Written Representation
REP1-101	Kevin Hicks Written Representation
REP1-102	Malcolm Brice Written Representation
REP1-103	Ruth Hazelgrove Written Representation
REP1-104	Stoke Bruerne Parish Council Written Representation
REP1-105	England's Economic Heartland Written Representation
REP1-106	Christine Barrand Written Representation
REP1-107	Milton Malsor Parish Council Written Representation
REP1-108	Terence Owen Written Representation
REP1-109	Vera Vincent Written Representation
REP1-110	Michael Ewin Written Representation
REP1-111	Alistair Inglis Written and Summary of Representations
REP1-112	John Exley Written Representation

REP1-113	Collingtree Allotment Association Written Representation
REP1-114	Highways England Responses to the ExA's Written Questions
REP1-115	Highways England Written and Summary Representations
REP1-116	Environment Agency Written Representation
REP1-117	Roade Parish Council Written Representation
REP1-118	Trevor Thompson Written Representation
REP1-119	Mark Redding Written Representation
REP1-120	Brian Sumpton Written Representation
Late Submission for Deadline 1	
REP1-121	Northampton Borough Council Responses to the ExA's Written Questions . Late submission accepted at the Examining Authority's discretion
REP1-122	Hilary Spurrier Late submission accepted at the Examining Authority's discretion
REP1-123	William B Yule Written Representation. Late submission accepted at the Examining Authority's discretion
REP1-124	Highways England Responses to the ExA's Written Questions. Late submission accepted at the Examining Authority's discretion
REP1-125	Chartwell Industries Limited Late submission accepted at the Examining Authority's discretion
REP1-126	Sharon Nola Late submission accepted at the Examining Authority's discretion
REP1-127	Stephen Blyth Late submission accepted at the Examining Authority's discretion
REP1-128	Valerie Hayward Late submission accepted at the Examining Authority's discretion
REP1-129	Blisworth Parish Council Late submission accepted at the Examining Authority's discretion
Deadline 2 – 20 November 2018 • Comments on Written Representations • Comments on responses to ExA's first written Questions • Responses to comments on relevant representations • Comments on Local Impact Reports • Other submissions	
REP2-001	Roxhill (Junction 15) Limited Covering Letter
REP2-002	Roxhill (Junction 15) Limited Doc 1.4D Document List
REP2-003	Roxhill (Junction 15) Limited Doc 2.3A Access and Rights of Way Plans Sheet 1 of 5 (P6)

REP2-004	Roxhill (Junction 15) Limited Doc 2.3D Access and Rights of Way Plans Sheet 4 of 5 (P6)
REP2-005	Roxhill (Junction 15) Limited Doc 3.1B - Draft Development Consent Order (Tracked)
REP2-006	Roxhill (Junction 15) Limited Doc 3.1B Draft Development Consent Order (Clean)
REP2-007	Roxhill (Junction 15) Limited Doc 3.4A Draft Development Consent Order (Tracked Changes)
REP2-008	Roxhill (Junction 15) Limited Doc 7.16 Statement of Common Ground (SoCG) with Hutchison 3G Limited and EE Limited
REP2-009	Roxhill (Junction 15) Limited Doc 8.6 Comments on Local Impact Reports
REP2-010	Roxhill (Junction 15) Limited Doc 8.7 Responses to Written Representations and other parties responses to the ExA's Written Questions
REP2-011	Roxhill (Junction 15) Limited Doc 8.8 Responses to Rail Central Submissions
REP2-012	Andrew Bodman Comments on Statement of Common Ground between Network Rail and Roxhill (Junction 15) Limited at Deadline 1
REP2-013	Andrew Bodman Response to Roxhill (Junction 15) Deadline 1 Submission (REP1-020)
REP2-014	Andrew Bodman Comments on Statement of Common Ground between Warwickshire County Council and Roxhill (Junction 15) Limited at Deadline 1
REP2-015	Andrew Bodman Response to Addleshaw Goddard LLP on behalf of Network Rail Deadline 1 Submission (REP1-050)
REP2-016	Ashfield Land Limited and Gazeley GLP Northampton s.à.r.l Responses to the ExA's Written Questions, Written Representations and document submitted as part of Deadline 1
REP2-017	Blisworth Parish Council Comments on responses to the ExA's Written Questions
REP2-018	Rod Sellers Comments on responses to the ExA's Written Questions
REP2-019	South Northamptonshire Council Comments on responses to the ExA's Written Questions
REP2-020	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on responses to the ExA's Written Questions
REP2-021	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on the South Northants Council Local Impact Report
REP2-022	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on responses to the ExA's Written Questions
Late Submission for Deadline 2	
REP2-023	Vivian Blyth Comments on Applicant response to Relevant Representations (Roxhill Doc 8.3) Late submission accepted at the discretion of the Examining Authority
REP2-024	Dr John P Davis Comments on Applicant response to Relevant Representations (Roxhill Doc 8.3) Late submission accepted at the discretion of the Examining Authority

Deadline 3 – 30 November 2018

- Statements of Common Ground (SoCG) between: Applicant and Ashfield Land and Gazeley GLP
Applicant, Ashfield Land and Gazeley GLP and Network Rail- see Procedural Decision (1) Annex B of Rule 8 letter
- Comments on the Applicant's revised dDCO
- Comments on any additional information/ submissions received by Deadline 2
- Responses to any further information requested by the ExA for this deadline

REP3-001	Roxhill (Junction 15) Limited Deadline 3 Submission - Covering Letter
REP3-002	Roxhill (Junction 15) Limited Revised Application Document. Doc 1.4E Document List
REP3-003	Roxhill (Junction 15) Limited Revised Application Document. Doc 6.11A Updated Commitments Tracker (clean)
REP3-004	Roxhill (Junction 15) Limited Revised Application Document. Doc 6.11A Updated Commitments Tracker (tracked)
REP3-005	Roxhill (Junction 15) Limited Revised Application Document. Doc 7.8A - Archaeology SoCG (signed by Northampton County Council)
REP3-006	Roxhill (Junction 15) Limited Doc 7.17 Statement of Common Ground (SoCG) with Rail Central (Ashfield Land and Gazeley GLP Northampton s.a.r.l) (agreed but not signed)
REP3-007	Roxhill (Junction 15) Limited Doc 7.18 Statement of Common Ground (SoCG) with Network Rail
	and Rail Central (Ashfield Land and Gazeley GLP Northampton s.a.r.l) (agreed but not signed)
REP3-008	Roxhill (Junction 15) Limited Doc 8.8A Applicant's response to Rail Central Deadline 2 Submissions
REP3-009	Roxhill (Junction 15) Limited Doc 8.9 Applicants response to other Parties Deadline 2 Submissions
REP3-010	Roxhill (Junction 15) Limited Revised Application Document. Updated Construction Environmental Management Plan (CEMP) (App 2.1 to ES) (clean)
REP3-011	Roxhill (Junction 15) Limited Revised Application Document. Updated Construction Environmental Management Plan (CEMP) (App 2.1 to ES) (tracked)
REP3-012	Roxhill (Junction 15) Limited Revised Application Document. Updated Landscape and Ecological Management Plan (LEMP) (App 5.12 to ES) (clean)
REP3-013	Roxhill (Junction 15) Limited Revised Application Document. Updated Landscape and Ecological Management Plan (LEMP) (App 5.12 to ES) (tracked)
REP3-014	South Northamptonshire Council Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)

REP3-015	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)
REP3-016	Ashfield Land Management Limited and Gazeley GLP Northampton s.a.r.l. Comments on Deadline 2 Responses
REP3-017	Addleshaw Goddard LLP on behalf of Network Rail (NR) Comments on revised DCO and comments on any additional information / submissions received by Deadline 2
REP3-018	Highways England Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)
REP3-019	Andrew Bodman Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)
REP3-020	Mark Redding Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)
REP3-021	Blisworth Parish Council Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)
Deadline 4 – 8 January 2019	
• Comments on SoCG submitted for D3 • Any revised dDCO from the Applicant • Post-hearing submissions including written submissions of oral cases	
• Comments on any additional information/ submissions received by Deadline 3 • Responses to any further information requested by the ExA for this deadline	
REP4-001	Roxhill (Junction 15) Limited Covering Letter to PINS 8.1.19
REP4-002	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.1C Draft Development Consent Order (Tracked)
REP4-003	Roxhill (Junction 15) Limited Revised Application Document Doc 1.4F Document List
REP4-004	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.1c Draft Development Consent Order (Clean)
REP4-005	Roxhill (Junction 15) Limited Revised Application Document Doc 3.4B Development Consent Order(DCO) changes Tracker
REP4-006	Roxhill (Junction 15) Limited Doc 5.2 ES Chapter 9 Air Quality 8.1.19 (Tracked)
REP4-007	Roxhill (Junction 15) Limited Revised Application Document. Doc 5.2 - ES Chapter 9 Air Quality 8.1.19 (Clean)

REP4-008	Roxhill (Junction 15) Limited Doc 5.2 Updated Comparative Analysis Northampton Gateway and Rail Central Appendix 2.4 to Environmental Statement
REP4-009	Roxhill (Junction 15) Limited Revised Application Document. Doc 8.4A Statement of Common Ground (SoCG) Update and Statement of Commonality
REP4-010	Roxhill (Junction 15) Limited Doc 8.8B - Applicants Responses to Rail Central Deadline 3 Submissions
REP4-011	Roxhill (Junction 15) Limited Doc 8.10 Post Hearing Submissions (ISH2, ISH3 and CAH1)
REP4-012	Roxhill (Junction 15) Limited Doc 8.11 Responses to Other Parties Deadline 3 Submissions
REP4-013	Roxhill (Junction 15) Limited Doc 8.12 Archaeology Trial Trenching Report (Roade Bypass)
REP4-014	Roxhill (Junction 15) Limited Doc 8.14 Hyde Farm House Minor Scheme Amendment
REP4-015	South Northamptonshire Council Post-hearing submissions including written submissions of oral case made at ISH2 and ISH3. Late submission accepted at the Examining Authority's
REP4-016	Alan Hargeaves Post-hearing submission on Environmental Matters ISH2
REP4-017	Blisworth Parish Council Post hearing submission including written submission of oral case made at Environmental Matters ISH2
REP4-018	Rod Sellers on behalf of the Stop Northampton Gateway Action Group Post-hearing submission including written submission of oral case made on Environmental Matters ISH2
REP4-019	Dr Andrew Gough Post hearing submission including written submission of oral case made at Environmental Matters ISH2 and response to comments made by the Applicant at Deadline 3
REP4-020	Ashfield Land Management Limited and Gazeley GLP Northampton s.a.r.l Post-hearing submissions including written submissions of oral case made at ISH2, ISH3 and CAH1
REP4-021	Andrew Bodman Comments on Applicant's response to other Parties (Doc 8.9)
REP4-022	Andrew Bodman Post hearing submission including written submission of oral case made at Environmental Matters ISH2 and AQMA in Northampton
REP4-023	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on Applicant's responses to Other Parties' Deadline 2 submissions (Doc 8.9) and post hearing submission on Environment Matters ISH2
REP4-024	Northampton Borough Council Post-hearing submissions including written submissions of oral case on DCO ISH3

REP4-025	Lyn Bird Post hearing submissions including written submission of oral case made at Environmental Matters ISH2 and other supporting information
REP4-026	Andrew Bodman Revised Application Document. Doc 5.2 - ES Chapter 9 Air Quality 8.1.19 (Clean)
REP4-027	Roxhill (Junction 15) Limited Doc 2.15 Public Right of Way Connections between Northampton Gateway and Rail Central
Deadline 5 – 26 February 2019 • Responses to Further Written Questions • Comments on the ExA's preferred dDCO or dDCO commentary Local • Comments on the RIES • Comments on any additional information/ submissions received by Deadline 4 • Responses to any further information requested by the ExA for this deadline	
REP5-001	Roxhill (Junction 15) Limited Covering Letter to PINs 26.2.19
REP5-002	Roxhill (Junction 15) Limited Applicants letter in response to Network Rail
REP5-003	Roxhill (Junction 15) Limited Letter of no Impediment from Natural England with regard to Bats and Common Pipistrelle
REP5-004	Roxhill (Junction 15) Limited Applicants letter in response to Rail Central (Ashfield Land and Gazeley GLP Northampton s.a.r.l)
REP5-005	Roxhill (Junction 15) Limited Revised Application Document Doc 1.4G Document List
REP5-006	Roxhill (Junction 15) Limited Letter of no impediment from Natural England with regard to Great Newt
REP5-007	Roxhill (Junction 15) Limited Revised Application Document. Doc 2.2 Works Plans Key Plan
REP5-008	Roxhill (Junction 15) Limited Revised Application Documents. 2.2A Works Plans Sheet 1 of 6
REP5-009	Roxhill (Junction 15) Limited Revised Application Document. Doc 2.2G Works Plans Main Site Composite
REP5-010	Roxhill (Junction 15) Limited Revised Application Document. Doc 2.10 Parameters Plan
REP5-011	Roxhill (Junction 15) Limited Doc 3.1D Draft Development Consent Order (Tracked)
REP5-012	Roxhill (Junction 15) Limited Doc 3.1D Draft Development Consent Order (Clean)
REP5-013	Roxhill (Junction 15) Limited Revised Application Document Doc 3.2A Explanatory Memorandum

REP5-014	Roxhill (Junction 15) Limited Revised Application Document Doc 3.4C Development Consent Order (DCO) changes Tracker
REP5-015	Roxhill (Junction 15) Limited Doc 7.13A Statement of Common Ground (SoCG) with Network Rail
REP5-016	Roxhill (Junction 15) Limited Doc 7.18A Statement of Common Ground (SoCG) with Network Rail and Rail Central (Ashfield Land and Gazeley GLP Northampton s.a.r.l) (signed)
REP5-017	Roxhill (Junction 15) Limited Revised Application Document Doc 8.4B Statement of Common Ground (SoCG) Update and Statement of Commonality
REP5-018	Roxhill (Junction 15) Limited Doc 8.5A Draft s106 Confirmation and Compliance document
REP5-019	Roxhill (Junction 15) Limited Doc 8.8C Applicants Response to Rail Central Deadline 4 Submission
REP5-020	Roxhill (Junction 15) Limited Doc 8.15 Parameters Plan Minor Amendments
REP5-021	Roxhill (Junction 15) Limited Doc 8.17 Applicants response to ExA's Further Written Questions
REP5-022	Roxhill (Junction 15) Limited Doc 8.18 Applicants response to other parties Deadline 4
REP5-023	Roxhill (Junction 15) Limited Doc 8.19 Applicants comments on the ExA's draft Development Consent Order (dDCO) commentary
REP5-024	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Response to the Examining Authority's Further Written Questions
REP5-025	Not used
REP5-026	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Comments on Updated Cumulative Impact Assessment with Rail Central (Doc 8.13)
REP5-027	Ashfield Land Limited and Gaxeley Northampton s.a.r.l Comments on Updated Comparative Analysis Northampton Gateway and Rail Central Appendix 2.4 to Environmental Statement (Doc 5.2)
REP5-028	Blisworth Parish Council Response to ExA's Further Written Questions
REP5-029	Stephen Blyth Comments on Applicants response to other parties (Doc 8.11)
REP5-030	Dr John P Davis Comments on Applicants response to other parties (Doc 8.11)
REP5-031	Dr Andrew Gough Response to ExA's Further Written Questions
REP5-032	Vivian Blyth Comments on Applicants response to other parties (Doc 8.11)
REP5-033	Highways England Response to ExA's Further Written Questions and Comments on the ExA's dDCO commentary

REP5-034	Mr J D Exley Response to ExA's Further Written Questions
REP5-035	Mr D. Nola and Mrs S.E. Nola Comments on Hyde Farm House Minor Scheme Amendment (Doc 8.14)
REP5-036	Network Rail Comments on the ExA's draft Development Consent Order (dDCO) commentary
REP5-037	Network Rail Response to ExA's Further Written Questions
REP5-038	Northamptonshire County Council Response to questions raised in ISH3
REP5-039	Northampton Borough Council Comments on the ExA's draft Development Consent Order (dDCO) commentary
REP5-040	Northampton Borough Council Response to ExA's Further Written Questions
REP5-041	Northamptonshire County Council Comments on the ExA's draft Development Consent Order (dDCO) commentary
REP5-042	Northamptonshire County Council Response to ExA's Further Written Questions
REP5-043	South Northamptonshire Council Response to ExA's Further Written Questions
REP5-044	Stop Roxhill Northampton Gateway Action Group (SRNG) Response to ExA's Further Written Questions and further information requested by the ExA
REP5-045	Stop Roxhill Northampton Gateway Action Group (SRNG) comments on Applicants post hearing submissions on ISH2, ISH3 & CAH1 (Doc 8.10)
REP5-046	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on Applicants response to other parties (Doc 8.11)
REP5-047	The Rt Hon. Andrea Leadsom MP Response to ExA's Further Written Questions
Late Submission for Deadline 5	
REP5-048	Vivian Blyth Late submission accepted at the discretion of the Examining Authority. Comments on Applicant's Archaeology Trial Trenching Report (Roade Bypass) (Doc 8.12)
REP5-049	South Northamptonshire Council Late submissions accepted at the Examining Authority's discretion. Updated response to ExA's Further Written Questions
REP5-050	Northampton Rail Users Group Late submission accepted at the discretion of the Examining Authority. Comments on Applicant's Responses to Written Representations and other parties responses to the ExA's Written Questions (Roxhill Doc 8.7)

Deadline 6 – 19 March 2019

- Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report
- Final s.106 Agreements and any similar Agreements and allied documents
- Final SoCG
- Post-hearing submissions including written submissions of oral cases
- Comments on responses to the ExA's Further Written Questions (if required)
- Comments on any additional information/ submissions received by Deadline 5
- Responses to any further information requested by the ExA for this deadline

REP6-001	Roxhill (Junction 15) Limited Covering letter to PINS 19.03.19
REP6-002	Roxhill (Junction 15) Limited Revised Application Document. Doc 1.4H Document List
REP6-003	Roxhill (Junction 15) Limited Revised Application Document. Updated Construction Environmental Management Plan (CEMP) (App 2.1 to ES)
REP6-004	Roxhill (Junction 15) Limited Revised Application Document. Doc 2.3 - Access and Rights of Way Plans Key Plan (P5)
REP6-005	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.1E - Draft Development Consent Order (Tracked)
REP6-006	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.1E Draft Development Consent Order (Clean)
REP6-007	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.2B Explanatory Memorandum
REP6-008	Roxhill (Junction 15) Limited Revised Application Document. Doc 3.4D Development Consent Order (DCO) changes Tracker
REP6-009	Roxhill (Junction 15) Limited Revised Application Document. Doc 6.4C Engrossment Section 106 Agreement
REP6-010	Roxhill (Junction 15) Limited Revised Application Document. Doc 6.11B Updated Commitments Tracker (clean)
REP6-011	Roxhill (Junction 15) Limited Doc 8.8D - Applicants responses to Rail Central Deadline 5 Submissions
REP6-012	Roxhill (Junction 15) Limited Doc 8.20 (Part 1) - Post-hearing submission for ISH4, ISH5, CAH2 and OFH2, including written submission of oral case
REP6-013	Roxhill (Junction 15) Limited Doc 8.20 (PART 2) - Response to ISH5 Action Points
REP6-014	Roxhill (Junction 15) Limited Doc 8.21 - Applicants responses to other parties Deadline 5 Submissions

REP6-015	Roxhill (Junction 15) Limited Doc 8.22 - Climate Change Summary
REP6-016	Roxhill (Junction 15) Limited Response to ISH5 Action Points - Plans Displayed on screen at ISH5
REP6-017	Roxhill (Junction 15) Limited Response to CAH2 Action Points - Plans Displayed on screen at CAH2
REP6-018	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Post-hearing submission for ISH4, ISH5 and CAH2, including written submission of oral case, further information in relation to ISH4 and response to Action Points
REP6-019	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Response to ISH4 Action Points
REP6-020	Andrew Bodman Comments on any additional information/ submissions received by Deadline 5
REP6-021	Christine Barrand Post-hearing submission for OFH2
REP6-022	Blisworth Parish Council Post-hearing submission for ISH4, including written submission of oral case
REP6-023	Blisworth Parish Council Post-hearing submission for OFH2, including written submission of oral case
REP6-024	Malcolm Brice Post-hearing submission for OFH2, including written submission of oral case
REP6-025	Stephen Blyth Post-hearing submission for OFH2, including written submission of oral case
REP6-026	John Exley Post-hearing submission for OFH2, including written submission of oral case
REP6-027	John Exley Post-hearing submission for ISH4, including written submission of oral case
REP6-028	John Exley Post-hearing submission for ISH
REP6-029	Dr Andrew Gough Post-hearing submission for ISH4, including written submission of oral case
REP6-030	Dr Andrew Gough Post-hearing submission for OFH2, including written submission of oral case
REP6-031	Alan Hargreaves Post-hearing submission for ISH4, including written submission of oral case
REP6-032	Highways England Post-hearing submission for ISH5, including written submission of oral case and response to Action Points

REP6-033	Richard Mawby Deadline 6 Submission - Post-hearing submission for OFH2, including written submission of oral case
REP6-034	Northampton Borough Council Response to ISH4 Action Points
REP6-035	Northamptonshire County Council Post-hearing submission for OFH2, including written submission of oral case and confirmation of the council's position in relation to the Northampton Gateway application
REP6-036	Northamptonshire County Council Post-hearing submission for ISH5, including written submission of oral case and response to Action Points
REP6-037	Mark Redding Post-hearing submission for ISH4
REP6-038	Rod Sellers On behalf of the Stop Northampton Gateway Action Group Post-hearing submission for OFH2, including written submission of oral case
REP6-039	South Northamptonshire Council Post-hearing submission for ISH4, including written submission of oral case and response to Action Points
REP6-040	South Northamptonshire Council Post-hearing submission for ISH5, including written submission of oral case
REP6-041	Stop Roxhill Northampton Gateway Action Group (SRNG) Comments on any additional information/ submissions received by Deadline 5
REP6-042	Stop Roxhill Northampton Gateway Action Group (SRNG) Post-hearing submission for ISH4, including written submission of oral case
REP6-043	Stop Roxhill Northampton Gateway Action Group (SRNG) Post-hearing submission for OFH2, including written submission of oral case
REP6-044	The Rt Hon. Andrea Leadsom MP Post-hearing submission for ISH4, including written submission of oral case
Late Submission for Deadline 6	
REP6-045	Alan Hargreaves Deadline 6 Submission - Late submission accepted at the Examining Authority's discretion. Comments on any additional information/ submissions received by Deadline 5
REP6-046	Dina Nola Late Submission - Post-hearing submission for CAH2 including written submission of oral case - Accepted at the discretion of the Examining Authority
REP6-047	Milton Malsor Parish Council Late submission accepted at the Examining Authority's discretion. Post-Hearing submission for ISH4

REP6-048	Roxhill (Junction 15) Limited Late submission accepted at the Examining Authority's discretion. Revised application document. Doc 8.5B s106 Confirmation and Compliance document
REP6-049	Roxhill (Junction 15) Limited Late submission accepted at the Examining Authority's discretion. Covering letter to PINS 28.03.19
Deadline 7 – 26 March 2019 • Comments on the Applicant's final dDCO • Comments on final s.106 Agreements and any similar Agreements and allied documents • Comments on final SoCG • Comments on any additional information/ submissions received by Deadline 6 • Responses to any further information requested by the ExA for this deadline	
REP7-001	Roxhill (Junction 15) Limited Covering letter to PINS 26.03.19
REP7-002	Roxhill (Junction 15) Limited Revised Application Document. Doc 1.4L Document List
REP7-003	Roxhill (Junction 15) Limited Revised Application Document. Doc 2.1D Land Plan Sheet 4 of 6
REP7-004	Roxhill (Junction 15) Limited Doc 4.3B Book of reference (Tracked)
REP7-005	Roxhill (Junction 15) Limited Doc 4.3B Book of Reference (Clean)
REP7-006	Roxhill (Junction 15) Limited Doc 8.8E - Applicants response to Rail Central Deadline 6
REP7-007	Roxhill (Junction 15) Limited Doc 8.23 - Applicants response to other parties Deadline 6
REP7-008	Roxhill (Junction 15) Limited Doc 8.24 Update on negotiations
REP7-009	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Comments on any additional information/ submissions received by Deadline 6
REP7-010	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l The Planning Inspectorate's response to the request submitted by Ashfield Land for a deferment to the Preliminary Meeting for the Rail Central Application
REP7-011	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l ~~Doc 2.15 Public Right of Way Connections between Northampton Gateway and Rail Central~~
REP7-012	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Comments on Doc 8.22 Climate Change Summary
REP7-013	Blisworth Parish Council Closing Remarks
REP7-014	Marcus Blake on behalf of W Irlam (Stoke Plain) Limited, Anthony Irlam and Anthony and Gillian Bament Response to any further information requested by the ExA for this deadline

REP7-015	South Northamptonshire Council Comments on the Applicant's final draft Development Consent Order (dDCO)
REP7-016	Stop Roxhill Northampton Gateway (SRNG) Comments on any additional information/ submissions received by Deadline 6
REP7-017	The Rt Hon. Andrea Leadsom MP Closing Remarks
Late Submission for Deadline 7	
REP7-018	Mr D. Nola and Mrs S.E. Nola Late submission accepted at the Examining Authority's discretion
REP7-019	Roxhill (Junction 15) Limited Late submission accepted at the Examining Authority's discretion. Revised application document. Doc 7.4A Addendum Statement of Common Ground (SoCG) with Anglian Water (DCO Drafting and Water Frame Directive) (signed)
REP7-020	Roxhill (Junction 15) Limited Late submission accepted at the Examining Authority's discretion. Revised application document. Doc 7.4 Water Statement of Common Ground (SoCG) with Anglian Water (signed)
REP7-021	Roxhill (Junction 15) Limited Late submission accepted at the Examining Authority's discretion. Response to CAH2 Action Points
Deadline 8 – 3 April 2019	
Responses to any further information requested by the ExA for this deadline	
REP8-001	Roxhill (Junction 15) Limited Covering letter to PINS 03.04.2019
REP8-002	Roxhill (Junction 15) Limited Revised Application Document. Doc 1.4J Document List
REP8-003	Roxhill (Junction 15) Limited Doc 8.25 Applicant's response to further information requested by the ExA for this deadline
REP8-004	Mark Redding Response to further information requested by the ExA for this deadline
REP8-005	Natural England Response to further information requested by the ExA for this deadline
Deadline 9 – 5 April 2019	
Comments on any additional information/ submissions received by Deadline 8	
REP9-001	Addleshaw Goddard LLP on behalf of Network Rail An update to the Examining Authority in advance of the closure of Examination

REP9-002	Ashfield Land Limited and Gazeley GLP Northampton s.a.r.l Comments on Doc 8.25 Applicant's response to further information requested by the ExA for this deadline
Late Submission for Deadline 8	
REP9-003	Rod Sellers on behalf of Stop Northampton Gateway Action Group Late submission accepted at the discretion of the Examining Authority - Response to Doc 8.25 Applicant's response to further information
Other Documents	
OD-001	Northampton Gateway SFRI Regulation 24 Transboundary Screening document



APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
AADT	Annual average daily traffic
AAWT	Annual average weekday traffic
Air Quality Chapter 3 rd Edition	The corrected version of the air quality chapter of the ES included by the Applicant in its replies to ExQ2 [REP5-021] at Appendix 3. It can be found at electronic page 119 of [REP5-021].
AN 15	Advice Note 15 – Drafting Development Consent Orders
AOD	Above ordnance Datum
ALC	Agricultural Land Classification
AP	Affected Person
Application	The Application for the Northampton Gateway Strategic Rail Freight Interchange submitted by the Applicant
Appx	Appendix
AQD	European Union Air Quality Directive
AQAP	Air Quality Action Plan
AQMA	Air Quality Management Area
AQS	UK Air Quality Standard
Art	Article
ASI	Accompanied Site Inspection
BMV	Best and most versatile agricultural land
BoR	Book of Reference
BPM	Best practicable means
CIA and UCIA	Cumulative Impact Assessment and Updated Cumulative Impact assessment
CO ₂	Carbon dioxide
CA	Compulsory acquisition
CAH	Compulsory Acquisition Hearing
CAZ	Clean Air Zone

Abbreviation or usage	Reference
CD&E waste	Construction, demolition and excavation waste
CEMP	Construction Environmental Management Plan
CF	Community Fund
C&I waste	Commercial and industrial waste
CLG	Community Liaison Group
CoPA	Control of Pollution Act 1974
DAS	Design and Access Statement
dB	Decibel
DBA	Desk-based Assessment
DCO	Development Consent Order
dDCO	Draft Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DIRFT	Daventry International Rail Freight Terminal
D	Deadline
DMRB	Design Manual for Roads and Bridges
DfT	Department for Transport
ECHR	European Convention on Human Rights
EA	Environment Agency
EH	English Heritage
EIA	Environmental Impact Assessment
EM	Explanatory Memorandum
EP	Environmental Permit
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	First Written Questions

Abbreviation or usage	Reference
ExQ2	Further Written Questions
FRA	Flood Risk Assessment
FS	Funding Statement
FTE	Full time equivalent
FTP	Framework Travel Plan
GVA	Gross Value Added
GVLIA3	Guidelines for Landscape and Visual Impact Assessment, third edition
GRIP	Governance for Railway Investment Projects
ha	Hectare
HE	Highways England
HGV	Heavy goods vehicle
IAP1	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
IP	Interested Party
IRZ	Impact Risk Zone
ISH	Issue Specific Hearing
km	kilometre
LAQM	Local air quality management
Laeq	The sound pressure level in decibels, equivalent to the total sound energy over a given time period.
LEMP	Landscape and Ecological Management Plan
LGV	Light goods vehicle
LIR	Local Impact Report
LPA	Local Planning Authority
LVIA	Landscape and visual impact assessment
m	Metres
MMP	Materials Management Plan
Mtpa	Million tonnes per annum

Abbreviation or usage	Reference
NBC	Northampton Borough Council
NCC	Northamptonshire County Council
NE	Natural England
NERC	The Natural Environment and Rural Communities Act
NG	Northampton Gateway
NGMS	A45/M1 Northampton Growth Management Scheme
NJMWMS	Northamptonshire Joint Municipal Waste Management Strategy
NLL	Northampton Loop Line
NMU	Non-motorised users
NO ₂	Nitrogen dioxide
NO _x	Nitrogen oxides
NPA2017	Neighbourhood Planning Act 2017
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NPSNN	National Policy Statement for National Networks
NR	Network Rail
NSIP	Nationally significant infrastructure project
NSTM2	Northamptonshire Strategic Transport Model
NTP	Northamptonshire Transportation Plan
OFH	Open Floor Hearing
ONS	Office for National Statistics
PA2008	Planning Act 2008
P-CEMP	Phase-specific Construction and Environmental Management Plan
PINS	Planning Inspectorate

Abbreviation or usage	Reference
PM	Preliminary Meeting
PM _{2.5} and PM ₁₀	Particulate matter of a size respectively less than 2.5 micrometres and less than 10 micrometres
pLWS	Potential Local Wildlife Site
PP	Protective Provision
ProW	Public Right of Way
PSED	Public Sector Equality
PTS	Public Transport Strategy
Req	Requirement
RC	The Applicant for the RC Project
RC proposal	The NSIP known as the Rail Central SRFI, Planning Inspectorate reference TR050004
RES	Report on European Sites
RPA	Relevant planning authority as defined in the DCO
RR	Relevant Representation
RRF	Rapid Rail Facility
Sch	Schedule
SEMLEP	South East Midlands Local Enterprise Partnership
SMP	Soil Management Plan
SNC	South Northamptonshire Council
SNCEDS	South Northamptonshire Council Economic Development Strategy
SNLP	South Northamptonshire Local Plan
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoST	Secretary of State for Transport
SNLP	South Northamptonshire Local Plan
SNLPP2	South Northamptonshire Part 2 Local Plan

Abbreviation or usage	Reference
SOV	Single Occupancy Vehicle
SPA	Special Protection Area
SRFI	Strategic Rail Freight Interchange
SRN	Strategic Road Network
sqm	square metres
SSSI	Site of Special Scientific Interest
SU	Statutory undertaker
SuDS	Sustainable urban drainage system
SUE	Sustainable Urban Extension
STWG	Sustainable Transport Working Group
SWMP	Site Waste Management Plan
TA	Transport Assessment
TCPA	Town and Country Planning Act 1990
tpa	Tonnes per annum
USI	Unaccompanied Site Inspection
WCML	West Coast Main Line
WaFD	Waste Framework Directive
WNJCS	West Northamptonshire Joint Core Strategy Local Plan (Part 1)
WR	Written Representation
3 rd Edition	The corrected version of the air quality chapter of the ES included by the Applicant in its replies to ExQ2 [REP5-021] at Appendix 3. It can be found at electronic page 119 of [REP5-021].

APPENDIX D: THE RECOMMENDED DDCO

201[X] No. 0000

INFRASTRUCTURE PLANNING

**The Northampton Gateway Rail Freight Interchange Order
201X**

Made - - - -

Coming into force - -

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008^(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009^(b) for an order granting development consent.

The application was examined in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010^(c) by a Panel of three members (the Panel) appointed by the Secretary of State in accordance with Chapter 2 of Part 6 of the 2008 Act.

The Panel, having considered the representations made and not withdrawn and the application with the accompanying documents, in accordance with section 74 of the 2008 Act has reported to the Secretary of State.

The Secretary of State having considered the representations made and not withdrawn and the report of the Panel has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application].

The Secretary of State in exercise of the powers conferred by section 114, 115, 117, 120 and 122 of, and Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and Commencement

1. This Order may be cited as the Northampton Gateway Rail Freight Interchange Order 201[X] and comes into force on [] 201[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961^(d);

“the 1965 Act” means the Compulsory Purchase Act 1965^(e);

(a) 2008 c. 29, Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20). Section 37 was amended by sections 128(2) and 137 of, and paragraphs 1 and 5 of Part 1 of Schedule 13 to, the Localism Act 2011 (c. 20).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732 and S.I. 2013/522, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682 and S.I. 2017/572. There are other amendments to the Regulations which are not relevant to this Order.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c.33.

(e) 1965 c.56.

“the 1980 Act” means the Highways Act 1980(a);

“the 1984 Act” means the Road Traffic Regulation Act 1984(b);

“the 1990 Act” means the Town and Country Planning Act 1990(c);

“the 1991 Act” means the New Roads and Street Works Act 1991(d);

“the 1996 Regulations” means The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996(e);

“the 2008 Act” means the Planning Act 2008(f);

“the 2010 Regulations” means the Community Infrastructure Levy Regulations 2010(g);

“the 2017 EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(h);

“access and rights of way plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the access and rights of way plans by the Secretary of State for the purposes of this Order;

“address” includes any number or address used for the purposes of electronic transmission;

“apparatus” for the purposes of article 8 (street works) and article 37 (apparatus and rights of statutory undertakers in stopped up streets) has the same meaning as in Part 3 of the 1991 Act;

“arboricultural assessment” means the arboricultural assessment contained in appendix 4.3 of the environmental statement;

“authorised activity” means for the purpose of article 28 (power to override easements and other rights)—

- (a) the erection, construction, carrying out or maintenance of any building or works on land;
- (b) the erection, construction or maintenance or anything in, on, over or under land; or
- (c) the use of any land;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act and any works carried out under the requirements;

“book of reference” means the document of that description referred to in Schedule 16 (certification of plans and documents) and certified as the book of reference by the Secretary of State for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“bus” has the same meaning as in Schedule 1 of the Traffic Signs Regulations and General Directions 2016(i);

“carriageway” has the same meaning as in the 1980 Act;

“chief officer of police” means the chief constable of Northamptonshire Police Force or any successor in function;

“commence” or “commencement” means the carrying out of a material operation, as defined in section 155 of the 2008 Act (when development begins), as part of the authorised development unless the context indicates otherwise;

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- (a) 1980 c.66.
 - (b) 1984 c.27.
 - (c) 1990 c.8.
 - (d) 1991 c.22.
 - (e) S.I. 1996/428.
 - (f) 2008 c. 29.
 - (g) S.I. 2010/948 as amended by S.I. 2011/987, S.I. 2012/635, S.I. 2012/2975, S.I. 2013/982, S.I. 2014/385, S.I. 2015/377, S.I. 2015/644, S.I. 2015/836 and S.I. 2018/172.
 - (h) S.I. 2017/572, amended by S.I. 2017/1012.
 - (i) S.I. 2016/362. There are amendments to the Regulations which are not relevant to this Order.

“construction and environmental management plan” means the document of that description contained in appendix 2.1 of the environmental statement;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act^(a);

“development consent obligation” means the development consent obligation entered into by agreement under section 106 (planning obligations) of the 1990 Act^(b) dated [] in respect of the authorised development and any subsequent amendment to the obligation;

“electronic communications code” has the same meaning as in section 106 of the Communications Act 2003^(c);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Communications Act 2003; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“the environmental statement” means the document of that description referred to in Schedule 16 (certification of plans and documents) and certified as the environmental statement by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“framework travel plan” means the document of that description referred to in requirement 4 and attached at appendix 1 to the transport assessment;

“hedgerow” has the same meaning as in the Hedgerow Regulations 1997^(d);

“HGV” means any vehicle with an operational weight capable of exceeding 7.5 tonnes;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“highway classification plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the highway classification plans by the Secretary of State for the purposes of this Order;

“Highways England” means Highways England Company Limited (company number 09346363), whose registered office is at Bridge House, Walnut Tree Close, Guildford, GU1 4ZZ, appointed as highway authority for the highways specified in article 2 of the Appointment of a Strategic Highways Company Order 2015^(e) or any successor in function;

“highway plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the highway plans by the Secretary of State for the purposes of this Order;

“highway works” means the works comprised in Works Nos. 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17;

“illustrative rail terminal plan” means the document of that description referred to in Schedule 16 (certification of plans and documents) and certified as the illustrative rail terminal plan by the Secretary of State for the purposes of this Order;

“land plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the land plans by the Secretary of State for the purposes of this Order;

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- (a) 1980 c. 66. The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).
 - (b) 1990 c. 8. Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 34) and was subsequently amended by section 33 of the Greater London Authority Act 2007 (c. 24), section 174 of the Planning Act 2008 (c. 29) and paragraphs 1 and 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).
 - (c) 2003 c. 21. Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30).
 - (d) S.I. 1997/1160.
 - (e) S.I. 2015/376.

“lead local flood authority” means Northamptonshire County Council or any successor in function as lead local flood authority or equivalent body;

“local highway authority” means Northamptonshire County Council or any successor in function as local highway authority;

“maintain” includes inspect, repair, adjust, alter, clear, refurbish or improve and any derivative of “maintain” is to be construed accordingly;

“main site” means that part of the land within the Order limits comprising the areas of land described on the works plans as Works Nos. 1, 2, 3, 4, 5 and 6;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily and described in the book of reference;

“Order limits” means the limits shown on the works plans represented by a red line within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“parameters plan” means the plan of that description referred to in Schedule 16 (certification of plans and documents) and certified as the parameters plan by the Secretary of State for the purposes of this Order;

“public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board or a lead local flood authority or a sewerage undertaker;

“public transport strategy” means the document of that description referred to in requirement 4 and attached at appendix 2 to the transport assessment;

“railway” has the same meaning as in the 2008 Act;

“railway plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as railway plans by the Secretary of State for the purposes of this Order;

“relevant highway authority” means in any provision of this Order the highway authority for any area of land to which that provision relates;

“relevant planning authority” means as regards the operation and enforcement of any part of this Order the district planning authority within whose administrative boundary that part of the authorised development relevant to the operation or enforcement of the provision in question is situated;

“relevant street authority” means in any provision of this Order the street authority for any area of land to which that provision relates;

“relevant traffic authority” means in any provision of this Order the traffic authority for any area of land to which that provision relates;

“relocation works” means works executed, or apparatus provided, under paragraph (2) of article 37 (apparatus and rights of statutory undertakers in stopped up streets);

“requirements” means the requirements set out in Part 1 of Schedule 2 (requirements);

“speed limit plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the speed limit plans by the Secretary of State for the purposes of this Order;

“statutory undertaker” means a statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“statutory utility” means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(b);

(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) 2003 c. 21. There are amendments to section 151 of the Communications Act 2003 which are not relevant to this Order.

“strategic road network” means that part of the highway network comprising trunk roads and motorways;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority” in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic authority” has the meaning as in section 121A (traffic authorities) of the 1984 Act(b);

“traffic officer” means a person designated under section 2 (designation of Traffic Officers) of the Traffic Management Act 2004(c);

“traffic regulation plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;

“transport assessment” means the document of that description contained within appendix 12.1 of the environmental statement;

“tribunal” means the Lands Chamber Upper Tribunal;

“tree preservation order” has the meaning given in section 198 of the 1990 Act(d);

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10 or 19(1) of the 1980 Act(e); or
- (b) an order or direction under section 10 of that Act; or
- (c) this Order; or
- (d) any other enactment;

“the undertaker” means—

- (a) Roxhill (Junction 15) Limited (company number 08763104) whose registered office is at Lumonics House, Valley Drive, Swift Valley, Rugby, Warwickshire CV21 1TQ; and
- (b) in respect of the main site only, any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person;

“verge” means any part of the road which is not a carriageway;

“water authority” means AWG Group Limited (company number 02366618) registered at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire PE29 6XU and any successor in function;

“warehousing” means the warehousing constructed as part of the authorised development;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or public drain; and

“the works plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the works plans by the Secretary of State for the purposes of this Order.

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- (a) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26).
 - (b) 1984 c. 27. Section 121A was inserted by section 168(1) of, and paragraph 70 of Part II of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22), and was amended by section 1(b) of, and paragraphs 70 and 95(1) and (3) of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7). There are other amendments to schedule 121A of the Act which are not relevant to this Order.
 - (c) 2004 c. 18.
 - (d) 1990 c. 8. Section 198 was amended by sections 192(1), (2)(a), (b) and (c), and section 238 of, and paragraphs 7 and 8 of Schedule 8, and Schedule 13 to, the Planning Act 2008 (c. 29), and sections 31, 32, 84 of, and paragraph 20 of Schedule 6, paragraph 34 of Schedule 7 and Schedule 19, and Parts I and II of, the Planning and Compensation Act 1991 (c. 34) and section 42(3) of the Planning and Compulsory Purchase Act 2004 (c. 5).
 - (e) 1980 c. 66. Section 10 was amended by section 22(2)(a), (b) and (cc) of the New Roads and Street Works Act 1991 (c. 22), section 1(6) of, and paragraphs 1, 10(1)-(4) of Part 1 of Schedule 1 to, the Infrastructure Act 2015 (c. 7), section 36 of, and paragraphs 21 and 22 of Schedule 2 to, the Planning Act 2008 (c. 29). Section 19(1) was amended by section 1(6) of, and paragraphs 1 and 15 of Part 1 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and where applicable distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development) and references to numbered requirements are to the requirements as numbered in Part 1 of Schedule 2 (requirements).

(5) For the purposes of this Order all areas described in square metres in the book of reference are approximate.

(6) Where the term approximate precedes a figure of measurement or quantum then the flexibility accorded by that word is limited by the parameters and the limits of deviation as described in article 4.

(7) Where in this Order a document or a plan is referred to by reference to a document number, the reference is to the document or plan of that number referred to in Schedule 16 (certification of plans and documents).

PART 2

PRINCIPAL POWERS

Development consent granted by the Order

3. Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out and used within the Order limits.

Parameters of authorised development

4.—(1) The authorised development is to be carried out within the parameters shown and described on the parameters plan and in carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans;
- (b) in respect of the highway works deviate vertically from the levels shown on the highway plans to a maximum of 1.5 metres upwards or downwards; and
- (c) in respect of the railway works comprised in Works Nos. 1 and 2 deviate vertically from the levels shown on the railway plans to a maximum of 1.5 metres upwards or downwards,

(2) The maximum limits described in paragraph (1) (a) to (c) do not apply to constrain the authorised development when it is demonstrated by the undertaker, on application, to the relevant planning authority's satisfaction, and the relevant planning authority certifies accordingly, that a deviation in excess of these limits would not give rise to any significant adverse effects on the environment.

(3) Any application under paragraph (2) shall be treated as if it were a “subsequent application” under the provisions of the 2017 EIA Regulations (whether or not it accords with the definition of “subsequent application” in the 2017 EIA Regulations) and the provisions of the 2017 EIA Regulations shall apply accordingly.

Authorisation of use

5. Subject to the provisions of this Order and to the requirements, the undertaker and any persons authorised by the undertaker may operate and use that part of the authorised development

comprised in Works Nos. 1 to 6 inclusive for the purposes of a rail freight terminal and warehousing, any purposes for which such parts of the authorised development is designed and for any purposes ancillary to those purposes.

Maintenance of authorised development

6.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not apply to the highway works the maintenance of which is governed by article 14 (maintenance of highway works) and Parts 2 and 3 of Schedule 13 (protective provisions).

(3) Paragraph (1) does not extend to any maintenance works which would give rise to any residual significant adverse environmental effects not identified at the time this Order was made or in any updated environmental information supplied under the 2017 EIA Regulations.

Benefit of Order

7.—(1) Subject to paragraphs (2), (3) and (4) the undertaker shall have the benefit of the Order.

(2) Roxhill (Junction 15) Limited, has the sole benefit of the provisions of Part 5 (powers of acquisition) unless the Secretary of State consents to the transfer of the benefit of those provisions.

(3) Roxhill (Junction 15) Limited has the sole benefit of the powers conferred by this Order to carry out the highway works in accordance with the provisions of Parts 2 and 3 of Schedule 13 (protective provisions) unless—

- (a) the Secretary of State consents to the transfer of the benefit of those provisions; or
- (b) the provisions of paragraph 4(6) of Part 2 or paragraph 4(6) of Part 3 of Schedule 13 apply in which case the relevant highway authority shall have the benefit of the powers to carry out the relevant highway works.

(4) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers, operators of the electronic communications code network and other persons affected by the authorised development.

PART 3

STREETS

Street works

8.—(1) The undertaker may for the purposes of the carrying out of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position;
- (e) construct bridges and tunnels;
- (f) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (g) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (h) reduce the width of the carriageway of the street;
- (i) make and maintain crossovers and passing places; and

- (j) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (i).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act and is subject to the provisions of Parts 2 and 3 of Schedule 13.

Power to alter layout, etc., of streets

9.—(1) Subject to paragraph (2), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the main site and the layout of any street at its junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain crossovers and passing places.

(2) The powers conferred by paragraph (1) must not be exercised without the consent of the local highway authority but such consent must not be unreasonably withheld and if the local highway authority has received an application for consent to exercise powers under paragraph (1) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application is submitted with all relevant information, it is deemed to have granted consent.

Permanent stopping up of streets

10.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up permanently the street specified in column (2) of Schedule 4 (streets to be permanently stopped up for which a substitute is to be provided) to the extent specified, by reference to the letters shown on the access and rights of way plans, in column (3) of that Schedule.

(2) No street specified in column (2) of Schedule 4 is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up of streets

11.—(1) The undertaker may during and for the purposes of carrying out the authorised development, temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) The undertaker must not temporarily stop up, alter or divert any street for which it is not the street authority without the consent of the relevant street authority which may attach reasonable conditions to any consent (including specifying the time period during which the street may be stopped up, altered or diverted) but such consent must not be unreasonably withheld.

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) If a street authority has received an application for consent under paragraph (3) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was submitted with all relevant information, it is deemed to have granted consent.

Public rights of way – creation, substitution and stopping up

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) stop up each of the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 5 (public rights of way to be permanently stopped up for which a substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule;
- (b) provide the substitute public rights of way described in column (4) of Part 1 of Schedule 5 between the specified terminus points and where specified, on a detailed alignment to be agreed with the local highway authority at the stage of the authorised development identified in column (5) of that Part of that Schedule;
- (c) temporarily stop up public rights of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way on an alignment to be agreed with the local highway authority prior to the temporary stopping up of the public right of way concerned; and
- (d) stop up each of the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 5 (public rights of way to be permanently stopped up for which no substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development identified in column (4) of that Part of that Schedule.

(2) No public right of way specified in columns (1) and (2) of Part 1 of Schedule 5 may be wholly or partly stopped up under this article unless the permanent substitute public rights of way referred to in column (4) of Part 1 of Schedule 5 or an alternative temporary substitute public right of way agreed by the local highway authority has first been provided by the undertaker, to the reasonable satisfaction of the local highway authority.

(3) Any temporary substitute right of way must be maintained by the undertaker with appropriate signage until the completion and opening of the permanent substitute public right of way specified in column (4) of Part 1 of Schedule 5.

(4) The undertaker must in connection with carrying out of the authorised development provide the new public rights of way specified in columns (1) and (2) of Part 3 of Schedule 5 (new public rights of way to be created) to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development in column (4) of that Part of that Schedule.

Accesses

13.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the consent of the relevant highway authority or the relevant street authority as appropriate (such consent not to be unreasonably withheld), form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The agreement of the relevant highway authority or the relevant street authority as appropriate is not required for the formulation, layout or improvement of a new or existing means of access described in Schedule 1 (authorised development) and carried out in accordance with the relevant provisions of Parts 2 and 3 of Schedule 13 (protective provisions).

(3) If a highway authority or street authority which has received an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

(4) The private means of access as set out in column (2) of Part 1 of Schedule 6 (private means of access to be replaced) may be removed by the undertaker and if removed must be replaced by the means of access as set out in column (3) of Part 1 of Schedule 6 at the stage of the authorised development identified in column (4) of that Part of that Schedule.

(5) The private means of access as set out in column (2) of Part 2 of Schedule 6 (private means of access to be closed for which no substitute is to be provided) may be closed by the undertaker at the stage of the authorised development identified in column (3) of that Part of that Schedule without a substitute being provided.

(6) The undertaker must provide the private means of access as set out in column (2) of Part 3 of Schedule 6 (new private means of access created) at the stage of the authorised development identified in column (3) of that Part of that Schedule.

Maintenance of highway works

14.—(1) The highway works must be completed in accordance with the provisions of Parts 2 and 3 of Schedule 13 (protective provisions).

(2) With effect from the date of the handover certificate referred to in paragraph 7 of Part 2 of Schedule 13 the highway works to which that certificate relates will be maintained by and at the expense of Highways England.

(3) With effect from the date of the final certificate referred to in paragraph 7 of Part 3 of Schedule 13 the highway works to which that certificate relates will be maintained by and at the expense of the local highway authority.

(4) Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph 6 of Part 2 of Schedule 13 then it shall be deemed to be dedicated as part of the public highway on the issue of that certificate.

(5) Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph 6 of Part 3 of Schedule 13 then it shall be deemed to be dedicated as part of the public highway on the issue of that certificate.

(6) For the purposes of this article, the definition of “maintain” in article 2 shall not apply and the word “maintain” shall be given its ordinary meaning when applied to highways.

Classification of highways

15.—(1) The new highways described in Part 1 of Schedule 7 (new highways) are to be—

- (a) classified as set out in column (3) of Part 1 of Schedule 7 for the purpose of any enactment or instrument which refers to highways classified as such; and
- (b) provided for the use of the classes of traffic defined in Schedule 4 (classes of traffic for purposes of special roads) to the 1980 Act as set out in column (4) of Part 1 of Schedule 7.

(2) From the date on which the undertaker notifies the Secretary of State that the new highways described in Part 1 of Schedule 7 have been completed as evidenced by issue of the provisional certificate in accordance with paragraph 6 of Part 2 and paragraph 6 of Part 3 of Schedule 13 or are open for through traffic, whichever is the earliest—

- (a) the body set out in column (5) of Part 1 of Schedule 7 is the highway authority for those highways; and
- (b) the new highways identified as special roads in column (3) of Part 1 of Schedule 7 are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.

(3) The existing highways described in Part 2 of Schedule 7 (existing highways) are to cease to have the classification and be the responsibility of the relevant highway authority set out in column (3) of Part 2 of Schedule 7 and from the occurrence of the event set out in column (4) are to be—

- (a) classified as set out in column (5) of Part 2 of Schedule 7 for the purpose of any enactment or instrument which refers to highways classified as such;
- (b) provided for the use of the classes of traffic defined in Schedule 4 to the 1980 Act as set out in column (6) of Part 2 of Schedule 7; and
- (c) the responsibility of the relevant highway authority set out in column (7) of Part 2 of Schedule 7 subject only to any maintenance obligation imposed on the undertaker in Parts 2 and 3 of Schedule 13,

as if such classification had been made under sections 10(2)(a) and 12(3) of the 1980 Act.

Speed limits

16.—(1) The orders referred to in columns (1) and (2) of Part 1 of Schedule 8 (existing orders) are revoked or varied as set out in column (3) of Part 1 of Schedule 8 upon the event listed in column (4) occurring.

(2) Upon the event listed in column (3) of Part 2 of Schedule 8 (highways subject to 50mph speed limit) no person is to drive any motor vehicle at a speed exceeding 50 miles per hour on the lengths of highway identified in column (2) of Part 2 of Schedule 8.

(3) Upon the event listed in column (3) of Part 3 of Schedule 8 (derestricted highways) the lengths of highway specified in column (2) of Part 3 of Schedule 8 shall cease to be restricted highways for the purpose of section 81 of the 1984 Act.

(4) During the period specified in column (4) of Part 4 of Schedule 8 (temporary speed limits) no person is to drive any motor vehicle at a speed exceeding the limit specified in column (2) of Part 4 of Schedule 8 along the lengths of highway specified in column (3) of Part 4 of Schedule 8.

(5) Without limiting the scope of the specific powers conferred by paragraph (4) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation, or maintenance of the authorised development, impose a temporary speed limit either at all times or at times, on days or during such periods, and on such highways as may be specified by the undertaker.

(6) The undertaker must not exercise the powers in paragraph (5) unless it has given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority.

(7) The speed limits imposed by this Order are deemed to have been imposed by an order under the 1984 Act and—

- (a) have the same effect; and

(a) 1980 c. 66. Section 10(2) was amended by section 22(2)(a) of the New Roads and Street Works Act 1991 (c. 22).

(b) may be varied by the relevant traffic authority in the same manner,
as any other speed limit imposed by an order under that Act.

(8) No speed limit imposed by this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011^(a) when used in accordance with regulation 3(5) of those Regulations.

Traffic regulation

17.—(1) The order referred to in column (1) of Part 1 of Schedule 9 (amendments to existing orders) is revoked as set out in column (2) of Schedule 9 upon the event listed in column (3) of Part 1 of Schedule 9 occurring.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation, or maintenance of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) suspend or authorise the use as a parking place of any highway;
- (d) make provision as to the direction or priority of vehicular traffic on any highway; and
- (e) permit or prohibit vehicular access to any highway;

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker shall not exercise the powers in paragraph (3) unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority; and
- (b) advertised its intention in such manner as the relevant traffic authority may specify in writing within 7 days of the relevant traffic authority's receipt of notice of the undertaker's intention under sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (3) shall—

- (a) have effect as if duly made by, as the case may be—
 - (i) the relevant traffic authority as a traffic regulation order under the 1984 Act; or
 - (ii) the local highway authority as an order under section 32 of the 1984 Act^(b); and
- (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (3) at any time.

(6) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

^(a) S.I. 2011/935.

^(b) 1984 c. 27. Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51). There are other amendments to section 32 which are not relevant to this Order.

(7) If the relevant traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (3) that is accompanied by all relevant information the relevant traffic authority shall be deemed to have given consent.

Clearways

18.—(1) Subject to paragraphs (3) and (4), following the event specified in column (3) of Part 2 of Schedule 9 (clearways), no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait on any part of a carriageway specified in columns (1) and (2) of Part 2 of Schedule 9, other than a lay-by.

(2) Nothing in paragraph (1) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of the carriageway or verge, for so long as may be necessary to enable that vehicle to be used in connection with—

- (i) the removal of any obstruction to traffic;
- (ii) the maintenance, improvement, reconstruction or operation of the carriageway or verge;
- (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the carriageway or verge of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A to the Communications Act 2003(a); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

- (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
- (ii) in the service of a local authority, Highways England, a safety camera partnership or the Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
- (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or
- (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services Act 2000(c); or

(c) in relation to a vehicle waiting when the person in control of it is—

- (i) required by law to stop;
- (ii) obliged to stop in order to avoid an accident; or
- (iii) prevented from proceeding by circumstances outside the person's control.

(3) Nothing in paragraph (1) applies to any vehicle selling or dispensing goods to the extent that the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispersed.

(4) Paragraphs (1) to (3) have effect as if made by a traffic regulation order under the 1984 Act and their application may be varied or revoked by such an order or by any other enactment which provides for the variation or revocation of such orders.

Motor vehicle restrictions

19.—(1) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle the maximum gross weight of which exceeds 7.5 tonnes to enter or proceed within the zone specified in column (2) of Part 3 of

(a) 2003 c. 21.

(b) 1991 c. 56.

(c) 2000 c. 26.

Schedule 9 (environmental weight limit) between the points specified in column (3) of Part 3 of that Schedule following the event specified in column (4) of Part 3 of that Schedule.

(2) The restriction referred to in paragraph (1) will not apply in respect of—

- (a) anything done in accordance with any restriction or requirement indicated by traffic signs placed on or on behalf of the police;
- (b) vehicles being used—
 - (i) in the service of a local authority or water authority in pursuance of statutory powers or duties; or
 - (ii) for police, ambulance, fire and rescue authority or traffic officer purposes; or
 - (iii) for the purpose of agriculture on any land adjacent to the restricted roads; or
 - (iv) for the purpose of gaining access to or leaving any land and/or premises situated in or adjacent to the restricted roads or any roads or lengths of roads accessible only therefrom; or
 - (v) in connection with the carrying out on land or any premises situated on or adjacent to the restricted roads of any building, industrial or demolition operation or the removal of any obstruction to traffic for the maintenance, improvement, reconstruction, cleansing or lighting of the road or any roads accessible only therefrom, or the laying, erection, alteration or repair of any sewer under the restricted roads or of any main pipe or apparatus for the supply of gas, water, or electricity or of any electronic communications apparatus thereunder or thereon, or for the placing, maintenance or removal of any traffic sign thereon; or
 - (vi) for public transport.

(3) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to proceed in the manner specified in column (2) of Part 4 of Schedule 9 (prohibited movements) at the point specified in column (1) of Part 4 of Schedule 9.

(4) Paragraphs (1) to (3) have effect as if made by a traffic regulation order under the 1984 Act, and their application may be varied or revoked by such an order or by any other enactment which provides for the variation or revocation of such orders.

Agreements with highway authorities

20.—(1) A relevant highway authority and the undertaker may enter into agreements related to the authorised development with respect to—

- (a) the construction, and/or maintenance of any new highway, including any structure carrying the highway over the existing railway and any railway authorised by this Order;
- (b) the strengthening, improvement, repair or reconstruction of any highway under the powers conferred by this Order;
- (c) the maintenance of landscaping within a highway constructed as part of the highway works;
- (d) the maintenance of highway related assets which fall outside of the extent of highway maintained by a relevant highway authority;
- (e) any stopping up, alteration or diversion of a highway as part of or to facilitate the authorised development; or
- (f) the carrying out in the highway of any of the works referred to in article 8 (street works).

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the relevant highway authority to carry out any function under this Order which relates to the highway in question;
- (b) include an agreement between the undertaker and relevant highway authority specifying a reasonable time for the completion of the works; and

- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

21.—(1) Subject to paragraphs (3), (4), (5) and (6) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) No water may be discharged into a watercourse that flows into the highway drainage system without the consent of the relevant highway authority and such consent may be given subject to such terms and conditions as the relevant highway authority consider appropriate such consent not to be unreasonably withheld or delayed.

(5) The undertaker must not do work on, over, under or near an ordinary watercourse (within nine metres of the landward toe of the bank) or make changes to any structure that helps control water or discharge any water into any watercourse except with the approval of the lead local flood authority; and such approval may be given subject to such terms and conditions as the lead local flood authority may reasonably impose, but must not be unreasonably withheld.

(6) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(7) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(8) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and
- (b) other expressions excluding watercourse, which are used both in this article and in the Water Resources Act 1991(c) have the same meaning as in that Act.

(10) If a person who has received an application for consent under paragraph (3) or approval under paragraphs (4), (5) or (6)(a) fails to notify the undertaker of its decision within 42 days of

(a) 1991 c.56. Section 106 was amended by section 35(1) and (8) and section 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and, sections 36(2) and 99 of the Water Act 2003 (c. 37) (subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

(c) 1991 c. 57.

receiving the application submitted with all relevant information, that person is deemed to have granted consent or given approval as the case may be.

Authority to survey and investigate the land

22.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 28 days' notice has been served on every owner, who is not the undertaker, and occupier of the land.

(3) Any person entering land under the powers conferred by this article on behalf of the undertaker—

- (a) must, if so required, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes may be made under this article—

- (a) in land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the relevant street authority;

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) If either a highway authority or a street authority which has received an application for consent under paragraph (4) that includes all relevant information fails to notify the undertaker of its decision within 42 days of receiving the application the authority is deemed to have granted the consent.

PART 5

POWERS OF ACQUISITION

Guarantees in respect of payment of compensation

23.—(1) The undertaker must not exercise a power conferred by articles 24 to 28 or 33 to 36 unless a guarantee or alternative form of security in respect of the liabilities of the undertaker to pay compensation under the power being exercised is first in place.

(2) The form of guarantee or security referred to in paragraph (1), and the amount guaranteed or secured, must be approved by the relevant planning authority; but such approval must not be unreasonably withheld or delayed.

(3) The undertaker must provide the relevant planning authority with such information as the relevant planning authority may reasonably require relating to the interests in the land affected by

the exercise of the powers conferred by articles 24 to 28 or 33 to 36 for the relevant planning authority to be able to determine the adequacy of the proposed guarantee or security including—

- (a) the interests affected; and
- (b) the undertaker's assessment, and the basis of the assessment, of the level of compensation.

(4) A guarantee or other security given in accordance with this article that guarantees or secures the undertaker's payment of compensation under this Part shall be enforceable against the guarantor or provider of security by any person to whom such compensation is properly payable.

(5) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years from the date on which the relevant power is exercised.

Compulsory acquisition of land

24.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental to, it as described in the book of reference and shown on the land plans.

(2) From the day on which a compulsory acquisition notice under section 134 of the 2008 Act^(a) is served or the day on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, all rights, trusts and incidents to which that land or that part of it which is vested (as the case may be) was previously subject shall be discharged or suspended, so far as their continuance would be inconsistent with the exercise of the powers under this Order.

(3) This article is subject to—

- (a) article 25 (compulsory acquisition of rights);
- (b) article 27 (private rights);
- (c) article 30 (time limit for exercise of authority to acquire land and rights compulsorily); and
- (d) article 35(9) (temporary use of land for carrying out the authorised development).

Compulsory acquisition of rights

25.—(1) The undertaker may acquire compulsorily the existing rights and create and acquire compulsorily the new rights listed in Schedule 11 (land in which new rights may be created) and described in the book of reference and shown on the land plans.

(2) From the date on which a compulsory acquisition notice is served pursuant to section 134 of the 2008 Act or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new right is, or rights are, acquired shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act^(b), as substituted by paragraph (5) of Schedule 12 (modifications of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires an existing right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 12 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article.

(a) 2008 c. 29. Section 134 was amended by sections 142(1)-(4) and section 237 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and regulation 2 of and paragraph 6 of the Schedule to the Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 (S.I. 2017/16).

(b) 1965 c. 56. Section 8 was amended by section 199(1) of, and paragraphs 1 and 2 of Part 1 of Schedule 17 to, the Housing and Planning Act 2016 (c. 22) and articles 5(1) and (2) of, and paragraphs 59 and 62(b) and (c) of Schedule 1 to, the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).

Acquisition of part of certain properties

26.—(1) This article applies instead of section 8(1) (other provisions as to divided land) of the 1965 Act (as applied by section 125 of the 2008 Act(a)) where—

- (a) a notice to treat is served on a person (the “owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (the “land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (the “land subject to the counter-notice”).

(3) If no counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If a counter-notice is served within that period, the question whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the Tribunal.

(5) If on a reference the Tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on a reference the Tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If—

- (a) the undertaker agrees to take the land subject to the counter-notice; or
- (b) the Tribunal determines that—
 - (i) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
 - (ii) the material detriment is not confined to a part of the land subject to the counter-notice,

(a) 2008 c. 29. Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, if it does so, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Private rights

27.—(1) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act^(a),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of the acquisition of the right by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights and restrictions over land within the limits of land which may be subject to compulsory acquisition powers shown on the land plans are extinguished on the appropriation of the land or right by the undertaker.

(4) Subject to the provisions of this article, all private rights and restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictions under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act^(b) to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act^(c) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 33 (statutory undertakers and operators of the electronic communications code network) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—

(a) 1965 c. 56. Section 11(1) was amended by section 186(1) and (2), section 187(1) and (2) and section 188 of the Housing and Planning Act 2016 (c. 22) and section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No 1).

(b) 2008 c. 29. Section 152 was amended by article 5(1) and (2) of, and paragraphs 291 and 293 of Schedule 1 to, S.I. 2009/1307.

(c) 2008 c. 29. Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27) and regulation 2 of and paragraph 12 of Part 1 of Schedule 1 to, S.I. 2017/1285.

- (i) the completion of the acquisition of the land or the creation or acquisition of rights over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,
- that any or all of those paragraphs do not apply to any right specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (8) If any agreement referred to in paragraph (7)(b)—
- (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include references to any trusts or incidents to which the land is subject.

Power to override easements and other rights

28.—(1) Any authorised activity undertaken by the undertaker which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title under it) is authorised by this Order if it is done in accordance with the terms of this Order, regardless of whether it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the use of the land arising by virtue of a contract.

(2) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) Nothing in this article authorises interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land which is a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(4) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right is extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(5) In respect of any interference, breach, extinguishment, abrogation or discharge under this article, compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provisions as to compensation for injurious affection) of the 1965 Act^(a); and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(a) 1965 c. 56. Section 10 was amended by article 5(1) and (2) of, and paragraphs 59 and 63 of Schedule 1 to, S.I. 2009/1307.

(7) Nothing in this article is to be construed as restricting the entitlement of any person to compensation.

(8) Where a person deriving title under the undertaker by whom the land in question was acquired or appropriated—

- (a) is liable to pay compensation; and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(9) For the purposes of this article, “statutory undertakers” does not include operators of the electronic communications code network.

Compulsory acquisition of land – incorporation of the mineral code

29. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated in this Order subject to the following modifications—

- (a) for “the acquiring authority” substitute “the undertaker”;
- (b) for the “undertaking” substitute “authorised development”; and
- (c) paragraph 8(3) is not incorporated.

Time limit for exercise of authority to acquire land and rights compulsorily

30.—(1) After the end of the period of 5 years beginning on the day on which the Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981(b) as applied by article 32 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 35 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of the land after the end of that period, if the land was entered and possession taken before the end of that period, subject always to the limitation in article 35.

Application of Part 1 of the Compulsory Purchase Act 1965

31.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows—

- (a) In section 4A(1) (extension of time limit during challenge)(c)—
 - (i) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
 - (ii) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 30 (time limit for exercise of authority to acquire land and rights compulsorily) of the Northampton Gateway Rail Freight Interchange Order 201X”.

(2) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article

(a) 1981 c. 67.

(b) 1981 c. 66. Section 4 was amended by sections 184, 185 and 199(2) of, and paragraphs 1 and 2 of Part 1 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(c) 1965 c. 56. Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

30 (time limit for exercise of authority to acquire land and rights compulsory) of the Northampton Gateway Rail Freight Interchange Order 201X”.

(3) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) at the end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 35 (temporary use of land for carrying out the authorised development) or 36 (temporary use of land for maintaining the authorised development) of Northampton Gateway Rail Freight Interchange Order 201X.”

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

32.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(a) applies as if this Order was a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), for subsection 2 substitute—

“(2) This section applies to any Minister, any local or other public authority or any body or person authorised to acquire land by means of a compulsory purchase order.”

(4) Omit section 5 (earliest date for execution of declaration)(b).

(5) Omit section 5A (time limit for general vesting declaration)(c).

(6) In section 5B(1) (extension of time limit during challenge)(d)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and

(b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 30 (time limit for exercise of authority to acquire land compulsorily) of the Northampton Gateway Rail Freight Interchange Order 201X”.

(7) In section 6 (notices after execution of declaration)(e), for subsection (1)(b)(a) there is substituted—

“(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008.”

(8) In section 7 (constructive notice to treat)(f), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(g), omit paragraph 1(2).

(a) 1981 c. 66.

(b) Section 5 was amended by section 183 of, and Schedule 15 to, the Housing and Planning Act 2016 (c. 22).

(c) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(d) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(e) Section 6 was amended by section 183 of, and paragraphs 4 and 7 of Schedule 15 to, the Housing and Planning Act 2016 (c. 22) and section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).

(f) Section 7 was amended by section 199(2) of, and paragraphs 1 and 3 of Part 1 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(g) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(10) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 31 (application of Part 1 of the Compulsory Purchase Act 1965) to the compulsory acquisition of land and rights under this Order.

Statutory undertakers and operators of the electronic communications code network

33. The undertaker may, subject to Schedule 13 (protective provisions)—

- (a) extinguish the rights of statutory undertakers and operators of the electronic communications code network within the Order limits; and
- (b) replace, reposition, renew, alter and supplement the apparatus belonging to statutory undertakers and operators of the electronic communications code network within the Order limits.

Rights under or over streets

34.—(1) Subject to paragraph (6) the undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who—

- (a) is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land; and
- (b) suffers loss as a result,

is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

(6) Paragraph (1) does not apply to any street which is part of the strategic road network.

Temporary use of land for carrying out the authorised development

35.—(1) The undertaker may, in connection with the carrying out of the authorised development—

(a) enter into and take temporary possession of—

- (i) the land specified in columns (1) and (2) of Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
- (ii) any of the Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act^(a) or no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

(a) 1965 c. 56. Section 11 was amended by section 186(1) and (2), section 187(1) and (2) and section 188 of, and paragraphs 1 and 2 of Schedule 16 to, and paragraph 6 of Schedule 14 to, the Housing and Planning Act 2016 (c. 22), section 14 of, and

- (b) remove any buildings and vegetation from that land;
- (c) construct and use temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct or carry out any works on that land as are mentioned in Schedule 1 (authorised development).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 10; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of 1 year beginning with the date of completion of the work for which temporary possession of that land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that and or has otherwise acquired the land subject to temporary possession.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works (including temporary accesses to the public highway) and restore the land to the reasonable satisfaction of the owners of the land and any temporary highway accesses to the reasonable satisfaction of the relevant highway authority; but the undertaker is not required to—

- (a) replace a building removed under this article; or
- (b) restore the land on which any permanent works have been constructed or carried out under paragraph (1)(d).

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) For the avoidance of doubt unless provided for in the book of reference and article 24 (compulsory acquisition of land) the undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous provisions) Measure 2006 (2006 No 1), and article 5(1) and (2) of, and paragraphs 59 and 64 of Schedule 1 to, S.I. 2009/1307.

Temporary use of land for maintaining authorised development

36.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for those purposes provided that any temporary access to the public highway shall be subject to the approval of the relevant highway authority.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works (including temporary accesses to the public highway) and restore the land to the reasonable satisfaction of the owners of the land and any temporary highway accesses to the reasonable satisfaction of the relevant highway authority.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act^(a) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act.

(11) In this article, “maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first brought into use.

Apparatus and rights of statutory undertakers in stopped up streets

37.—(1) Where a street is stopped up under article 10 (permanent stopping up of streets) any statutory utility whose apparatus is under, in, on, along or across the street has the same powers

(a) 1965 c. 56. Section 13 was amended by section 139(4)-(9) and section 62(3) of, paragraphs 27 and 28(1)-(3) of Schedule 13 to, and Part 13 of Schedule 23 to, the Tribunal, Courts and Enforcement Act 2007 (c. 15).

and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 10 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of that new apparatus involves additional costs which would not have been incurred if the apparatus had been of the same type, capacity or laid at the same depth as the existing apparatus, then the amount payable to the statutory utility is to be reduced by a sum equivalent to those additional costs.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works must be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs must be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

No double recovery

38. Compensation is not payable both under this Order and under any other enactment, any contract or any rule of law to the extent the compensation relates to the same detriment.

PART 6

MISCELLANEOUS AND GENERAL

Operation and use of railways

39. The undertaker may operate and use the railway comprised in the authorised development and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of goods.

Operational land for the purposes of the 1990 Act

40. Development consent granted by this Order within that part of the Order limits upon which the highway works are to be carried out is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Charges

41. The undertaker may demand, take or recover or waive such charges for carrying goods on the railway comprised in the authorised development, and for any other services or facilities provided in connection with the operation of that railway, as it thinks fit.

Defence to proceedings in respect of statutory nuisance

42.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by persons aggrieved by statutory nuisance)(a) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance)(b) no order may be made, and no fine may be imposed, under section 82(2)(c) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(d); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(a) 1990 c. 43. There are amendments to this section which are not relevant to this Order.

(b) 1990 c. 43. Section 79(1) was amended by sections 101 and 102 of the Clean Neighbourhood and Environment Act 2005 (c. 16). There are other amendments to the Act which are not relevant to this Order.

(c) 1990 c. 43..

(d) 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Section 61(9) was amended by Schedule 24 to the Environment Act 1995 (c. 25), and section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to the 1974 Act which are not relevant to this Order.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of the premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Felling or lopping of trees and removal of hedgerows

43.—(1) Subject to paragraphs (4), (5) and (6) the undertaker may fell or lop any tree, shrub or hedgerow within 15 metres of any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub or hedgerow—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person who suffers loss for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The provisions of paragraph (1) do not apply without the agreement of the relevant planning authority to any tree or hedgerow identified to be retained in the landscaping scheme approved under requirement 10.

(5) The provisions of paragraph (1) do not apply without the agreement of the relevant highway authority to any tree or hedgerow within a highway.

(6) The undertaker may fell or lop or cut back any tree or shrub which is subject to a tree preservation order (as identified in appendix C of the arboricultural assessment) with the prior approval of the relevant planning authority, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(7) In carrying out any activity authorised by paragraph (6)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.

(8) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.

Protective provisions

44. Schedule 13 to this Order has effect.

Governance of requirements and governance of protective provisions relating to highway works

45.—(1) When in any requirement or in Parts 2 and 3 of Schedule 13 (protective provisions) approval or agreement is required of, or with, anybody in relation to the content, carrying out or use of the authorised development (including for the avoidance of doubt the approval of details or plans under the requirements) such approval or agreement—

- (a) must not be given if it would permit a change to the development which would give rise to any significant adverse effects on the environment; and
- (b) shall be treated as if it were a “subsequent application” under the provisions of the 2017 EIA Regulations (whether or not it accords with the definition of “subsequent

application” in the 2017 EIA Regulations) and the provisions of the 2017 EIA Regulations shall apply accordingly.

(2) When any details, plans or other matters have been agreed or approved by the relevant planning authority under a requirement or the relevant highway authority under a requirement or Parts 2 and 3 of Schedule 13 then they may subsequently be amended by agreement with the relevant planning authority or relevant highway authority as the case may be provided that no amendments to those details, plans or other matters may be approved where such amendments would permit a change to the development which would give rise to any significant adverse effects on the environment.

(3) Where a consent, agreement or approval is required or requested by the undertaker under a requirement then the procedure set out in Part 2 of Schedule 2 (procedure for approvals etc. under requirements) for obtaining such consent, agreement or approval, and appealing against the refusal or failure to approve or refuse such consent, agreement or approval, shall apply.

Disapplication, application and modification of legislative provisions

46.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development—

- (a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991^(a) in relation to watercourses for which Northamptonshire County Council is the drainage board concerned;
- (b) section 32 (variation of awards) of the Land Drainage Act 1991^(b);
- (c) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991^(c); and
- (d) section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981^(d).

(2) The provisions of the Neighbourhood Planning Act 2017^(e) do not apply in so far as they relate to the temporary possession of land under articles 35 and 36 of this Order.

(3) Any development, or any part of a development within the Order limits which is constructed or used under the authority of a planning permission pursuant to Part 3 of the 1990 Act (whether express or otherwise) following the coming into force of this Order shall be disregarded at all times for the purposes of ascertaining whether or not an offence has been committed under the provisions of sections 160 and 161 of the 2008 Act^(f).

(4) Regulation 4 (requirement for consent) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007^(g) does not apply to any advertisement erected in the location and in accordance with the parameters shown on the parameters plan as S1 and S2.

(5) This Order shall not constitute a planning permission for the purpose of Part 11 of the 2008 Act (community infrastructure levy) notwithstanding the definition of planning permission contained within article 5 of the 2010 Regulations (meaning of planning permission).

(a) 1991 c. 59. Section 23 was amended by section 31 of, and paragraphs 25 and 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29).

(b) 1991 c. 59.

(c) 1991 c.59. Section 66 was amended by section 31 of, and paragraphs 25 and 38 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29) and section 86(1) and (3) of the Water Act 2014 (c. 21).

(d) 1981 c. 69. Section 28E was amended by section 105(1) of, and paragraphs 79 and 80 of Part 1 of Schedule 11 to, Natural Environment and Rural Communities Act 2006 (c. 16).

(e) 2017 c. 20.

(f) 2008 c. 29. Sections 160 and 161 were amended by regulation 4(1) of, and paragraph 41 of Part 1 of Schedule 4 to, S.I. 2015/664. Section 161 was also amended by section 112(2) of, and paragraph 4 of Part 1 of Schedule 8 to, the Marine and Coastal Access Act 2009 (c. 23).

(g) S.I. 2007/783.

(6) Schedule 14 (miscellaneous controls) to this Order which makes provision applying/modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order has effect.

(7) Paragraphs (1) to (6) only apply in so far as those provisions are not inconsistent with the 2017 EIA Regulations and any orders, rules or regulations made under the 2008 Act.

Certification of plans and documents

47.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the documents identified in Schedule 16 (certification of plans and documents) for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

48.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978^(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of that land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(a) 1978 c. 30.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date may not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article—

“electronic transmission” means a communication transmitted—

- (a) by means of electronic communications network; or
- (b) by other means but while in electronic form; and

“legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

49. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order, other than a difference which falls to be determined by the tribunal or is the subject of enforcement action under Part 8 of the 2008 Act, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party, after giving notice in writing to the other, by—

- (a) in the case of matters pertaining to land and the surveying of such land, the president of the Royal Institute of Chartered Surveyors;
- (b) in the case of matters of legal interpretation, the president of the Law Society; and
- (c) in the case of all other matters the president of the Institute of Civil Engineers.

Signed by the authority of the Secretary of State

Address
Date

Name
Position
Department

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

PART 1

NSIP: THE CONSTRUCTION OF A RAIL FREIGHT INTERCHANGE

In the County of Northamptonshire and the District of South Northamptonshire and in the Borough of Northampton—

Works No. 1

Within the area of land described on the works plans as Works No. 1—

(1) The construction of a new railway line the general arrangement of which is shown on the railway plans from the rail freight terminal (Works No. 2) to connect with the existing Northampton Loop railway line and including—

- (a) construction of railway track and associated rail infrastructure;
- (b) a tunnel under the screening bund to be provided as part of Works No. 6;
- (c) formation of railway cuttings, embankments and all necessary earthworks, drainage and overhead electrified line equipment;
- (d) arrival and departure rail tracks adjacent to the rail freight terminal constructed as part of Works No. 2; and
- (e) a headshunt.

(2) Alterations to tracks, signalling, overhead electrified line equipment and associated plant on the Northampton Loop railway line to facilitate the new railway line.

Works No. 2

Within the area of land described on the works plans as Works No. 2—

(1) The construction of a rail freight terminal, the general arrangement of which is shown indicatively on the illustrative rail terminal plan, to connect with the rail infrastructure described in Works No. 1 including—

- (a) earthworks to achieve a terminal plateau;
- (b) access and circulation roads;
- (c) the construction of an intermodal rail freight loading and unloading terminal and terminal for the loading of aggregates including but not exclusively:
 - (i) rail sidings to load and unload freight;
 - (ii) raised platforms;
 - (iii) freight storage areas; and
 - (iv) gantry cranes and reach stackers
- (d) rail tracks and associated rail infrastructure;
- (e) drainage;
- (f) security fencing;
- (g) cripple sidings, rail freight terminal refuelling and maintenance areas;
- (h) terminal entry and exit gates, loading lanes, internal roads, gatehouses and parking areas;

- (i) rail freight terminal administrative building including staff and visitor welfare facilities; and
- (j) storage and workshop buildings.

Works No. 3

Within the area of land described on the works plans as Works No. 3 the construction of a new railway line to serve the warehousing to be constructed within Works No. 4 on land identified as Zones A2a, A2b, A3 and A4 on the parameters plan, the general arrangement of which is shown indicatively on the railway plans.

Works No. 4

Within the area of land described on the works plans as Works No. 4—

(1) The construction of rail served warehousing (including ancillary offices and other buildings) within the areas annotated as Zones A1, A2, A3 and A4 on the parameters plan including—

- (a) railway sidings and associated railway infrastructure connecting to Works No. 3;
- (b) construction of development plateaus;
- (c) warehouses and ancillary buildings such as gatehouses;
- (d) service yards and vehicle parking;
- (e) vehicle and pedestrian access routes;
- (f) solar energy provision;
- (g) vehicle maintenance units;
- (h) container storage;
- (i) ancillary buildings;
- (j) drainage basins and ponds for surface water attenuation and other attenuation features;
- (k) landscaping and bunding;
- (l) relocation of existing communications masts; and
- (m) signage.

(2) HGV park to accommodate approximately 120 HGVs and welfare facilities.

(3) Estate office.

(4) The demolition of existing farmhouses and associated outbuildings.

(5) Advertisements located within the area indicated and in accordance with the parameters and location shown as S1 on the parameters plan.

Works No. 5

Within the area of land described on the works plans as Works No. 5—

(1) The construction of infrastructure on the main site including—

- (a) private estate roads;
- (b) roundabouts and other junctions;
- (c) accesses to the main site from the A508 connecting to Works No. 7;
- (d) footways and cycleways;
- (e) vehicle lay-bys; and
- (f) bus stops and shelters.

Works No. 6

Within the area of land described on the works plans as Works No. 6—

(1) The provision of structural landscaping including—

- (a) earthworks (including retaining structures) for the creation of screening bunds;

- (b) soft landscaping surrounding the development comprising Works Nos. 1, 2, 3, 4 and 5 and including screening bund over the tunnel comprised in Works No. 1;
- (c) basins and ponds for surface water attenuation;
- (d) boundary treatments (including fencing);
- (e) ecological mitigation and habitat creation;
- (f) flood plain compensation;
- (g) retention of existing woodland and agricultural land; and
- (h) relocation of existing communications masts.

(2) The provision of a footbridge for a public footpath to cross over the railway constructed as part of Works No. 1.

(3) Advertisements located within the areas indicated and in accordance with the parameters and locations shown as S1 and S2 on the parameters plan

Works No. 7

Within the area of land described on the works plans as Works No. 7—

(1) Works to the A508 the general arrangement of which is shown on the highway plans (Documents 2.4B and 2.4C) including—

- (a) works to create a roundabout providing access to the main site;
- (b) works to create a temporary access to the main site from the A508 as shown on drawing number NGW-BWB-GEN-XX-SK-C-SK07 Rev P4 contained in the construction and environmental management plan;
- (c) widening of the A508 to a dual carriageway between the roundabout access to the main site and junction 15 of the M1 motorway;
- (d) the removal of existing carriageway and construction of a new carriageway;
- (e) removal of and alterations and extensions to drainage culverts;
- (f) construction of a shared use footway and cycleway alongside the A508; and
- (g) relocation of existing communications mast and its associated access.

PART 2

ASSOCIATED DEVELOPMENT

Associated development within the meaning of s115(2) (development for which consent may be granted) of the 2008 Act comprising—

In the County of Northamptonshire and the District of South Northamptonshire and the Borough of Northampton—

Works No. 8

Within the area of land described on the works plans as Works No. 8—

(1) Works to junction 15 of the M1 motorway the general arrangement of which is shown on the highway plans (Document 2.4B) comprising enlargement, widening and alteration of the gyratory that forms junction 15;

(2) (a) Works to the M1 motorway the general arrangement of which is shown on the highway plans (Documents 2.4A and 2.4B) including—

- (i) realignment, improvement and widening of the M1 slip roads between the mainline M1 motorway and the gyratory that forms junction 15; and
- (ii) realignment and improvement of merges and diverges between the mainline M1 motorway and the M1 slip roads;

- (iii) removal of and alterations and extensions to drainage culverts; and
 - (iv) installation of gantries,
- or, as an alternative,
- (b) Works to the M1 motorway the general arrangement of which is shown on the highway plans (Documents 2.4T and 2.4U) including—
 - (i) realignment, improvement and widening of the M1 slip roads between the mainline M1 motorway and the gyratory that forms junction 15; and
 - (ii) realignment and improvement of merges and diverges between the mainline M1 motorway and the M1 slip roads;
 - (iii) removal of and alterations and extensions to drainage culverts; and
 - (iv) installation of gantries.

(3) Works to the A45 trunk road the general arrangement of which is shown on the highway plans (Document 2.4B) including—

- (a) realignment, widening and improvement of the A45;
- (b) improvement and signalisation of the junction between the C67 Watering Lane and the A45 Northbound;
- (c) removal of a parking lay-by;
- (d) removal of bus lay-bys;
- (e) removal of and alterations and extensions to drainage culverts; and
- (f) installation of gantries.

Works No. 9

Within the area of land described on the works plans as Works No. 9—

(1) Works to Saxon Avenue the general arrangement of which is shown on the highway plans (Document 2.4B) comprising widening, improvement and alterations connecting to Works No. 8;

(2) Works to the C67 Watering Lane the general arrangement of which is shown on the highway (Document 2.4B) plans including—

- (a) realignment and improvement connecting to Works No. 8 and
- (b) provision of a bus stop and an uncontrolled crossing.

(3) Improvement of the Collingtree footpath bridge over the M1 motorway (and its northern approach) to provide a cycle track as shown on the access and rights of way plans (Document 2.3A).

Works No. 10

Within the area of land described on the works plans as Works No. 10 the construction of new sewers and improvements and alterations to existing sewers as shown on drawing number NGW-BWB-GEN-XX-SK-C-SK13 Rev P1 contained in Appendix 7.3 of the environmental statement.

Works No. 11

Within the area of land described on the works plans as Works No. 11—

(1) Works to junction 15A of the M1 motorway the general arrangement of which is shown on the highway plans (Document 2.4F) including—

- (a) realignment, improvement and widening of the A43; and
- (b) improvement, widening and partial signalisation of the roundabouts north and south of the M1.

(2) Realignment, improvement and widening of the A5123 the general arrangement of which is shown on the highway plans (Document 2.4F).

Works No. 12

Within the area of land described on the works plans as Works No. 12—

(1) The alteration of the junction between the A508 and Blisworth Road (Parish of Courteenhall) the general arrangement of which is shown on the highway plans (Document 2.4C) including—

- (a) alterations to remove the ability for right turn manoeuvres including the construction of a central island;
- (b) realignment of the A508;
- (c) relocation of the bus stop lay-by; and
- (d) alterations to the access into the Courteenhall Estate.

(2) Construction of a shared use footway and cycleway on the western side of the A508 the general arrangement of which is shown on the highway plans (Document 2.4C) connecting with that provided within Works Nos. 7 and 13.

(3) Construction of an uncontrolled pedestrian crossing of the A508 the general arrangement of which is shown on the highway plans (Document 2.4C) at the junction between the A508 and the unnamed road to Quinton.

Works No. 13

Within the area of land described on the works plans as Works No. 13—

(1) The construction of a new highway linking the A508 Northampton Road to the A508 Stratford Road, bypassing the village of Roade (to be known as the Roade Bypass), the general arrangement of which is shown on the highway plans (Documents 2.4C, 2.4D and 2.4E) including—

- (a) roundabout junctions between the Roade Bypass and the A508 Northampton Road, A508 Stratford Road and Blisworth Road (Parish of Roade);
- (b) drainage swales and attenuation features;
- (c) a bridge over the West Coast Main Line railway;
- (d) an underpass for bridleway RZ1/KZ10;
- (e) the stopping up and substitution of parts of existing public rights of way KZ2a, KZ19, and RZ3;
- (f) the construction of a shared use footway and cycleway;
- (g) environmental mitigation bunds and acoustic fencing;
- (h) ecological mitigation areas;
- (i) temporary construction compounds; and
- (j) the alteration of private accesses as shown on the access and rights of way plans.

Works No. 14

Within the area of land shown on the works plans as Works No. 14—

(1) The improvement of the junction between the A508 and the C26 the general arrangement of which is shown on the highway plans (Document 2.4E) including—

- (a) realignment of the A508;
- (b) improvement and enlargement of the priority junction between the A508 and C26 Rookery Lane and between the A508 and C26 Ashton Road;
- (c) construction of a footway and a shared use footway and cycleway;
- (d) uncontrolled crossings of the A508 and C26; and
- (e) the alteration of a private access as shown on the access and rights of way plans.

Works No. 15

Within the area of land shown on the works plans as Works No. 15—

(1) The improvement of the junction between the A508 and the C85 Pury Road the general arrangement of which is shown on the highway plans (Document 2.4F) including—

- (a) widening and realignment of the A508; and
- (b) extension of the ghost island right turn lane at the junction between the A508 and C85 Pury Road.

Works No. 16

Within the area of land shown on the works plans as Works No. 16—

(1) The improvement of the junction between the C27 Stoke Road and Knock Lane the general arrangement of which is shown on the highway plans (Document 2.4F) including—

- (a) widening of Knock Lane on the approach to the C27 Stoke Road; and
- (b) drainage improvements.

(2) The widening of Knock Lane and Blisworth Road (Parish of Roade) the general arrangement of which is shown on the highway plans (Document 2.4F).

Works No. 17

Within the area of land described on the works plans as Works No. 17—

(1) The improvement of the A508 in Grafton Regis the general arrangement of which is shown on the highway plans (Document 2.4F) including—

- (a) a refuge island on the A508;
- (b) removal of a parking lay-by;
- (c) alterations to a bus stop lay-by and footway; and
- (d) a ghost island right turn junction at Church Lane.

Further works

The following further works provided that such works do not give rise to any residual significant adverse environmental effects not identified at the time this Order was made or in any updated environmental information supplied under the 2017 EIA Regulations—

(1) Within the area of land described on the works plans as Works Nos. 1 to 5 the provision of—

- (a) weighbridges;
- (b) internal estate roads, maintenance accesses and footways;
- (c) cycle parking facilities;
- (d) bus turning-head;
- (e) substations;
- (f) demolition of buildings and structures; and
- (g) such other works as may be necessary or expedient for the purpose of or in connection with the construction of the Works Nos 1 to 17.

(2) Within the area of land described on the works plans as Works Nos. 1 to 6—

- (a) swales, landscaping and boundary treatments, earthworks and earthwork retaining structures;
- (b) the provision of footways, cycle tracks, permissive cycle tracks, bridleways and footpath linkages;
- (c) water supply works, foul drainage provision, foul pumping stations, surface water management systems, balancing ponds (surface and underground), attenuation and culverting;
- (d) connections to mains services and provision of utilities infrastructure including primary and secondary substations and pressure reducing stations;
- (e) diversion and provision of utilities including foul water sewers;

- (f) relocation of existing communications masts;
- (g) demolition of surface structures;
- (h) temporary concrete batching plants during the period of construction of the authorised development;
- (i) temporary construction compounds and materials and aggregate store during the period of construction of the authorised development;
- (j) lighting;
- (k) signage;
- (l) CCTV equipment; and
- (m) such other works as may be necessary or expedient for the purpose of or in connection with the construction of Works Nos. 1 to 17.

(3) Within the area of land described on the works plans as Works Nos. 7 to 9 and 11 to 17 the provision of—

- (a) site clearance and excavation;
- (b) removal of existing and creation of new private means of accesses in the locations shown on the access and rights of way plans;
- (c) fencing for boundary treatment and noise attenuation;
- (d) safety barriers;
- (e) surface water drainage works including swales, attenuation, outfalls, headwalls and culverting;
- (f) ducting;
- (g) bunds, embankments, cuttings, landscaping, earthworks and earthwork retaining structures;
- (h) pavements, surface treatments, refuge islands, kerbs and channels;
- (i) the provision of footways, cycle tracks, bridleways and footpath linkages;
- (j) traffic signs, traffic signals and road markings;
- (k) street lighting and electrical equipment;
- (l) retaining walls;
- (m) diversion and provision of utilities including foul water sewers;
- (n) temporary earthworks material stockpiles;
- (o) demolition of buildings and structures; and
- (p) such other works as may be necessary or expedient for the purpose of or in connection with the construction of Works Nos 1 to 17.

SCHEDULE 2

Article 3

PART 1 REQUIREMENTS

Interpretation

1. In this Schedule unless the context requires otherwise—

“authorised buildings” means any buildings erected as part of the authorised development;

“component of the authorised development on the main site” means the components listed in requirement 3(1)(a) to (j);

“construction and environmental management plan” means the document of that description contained in appendix 2.1 of the environmental statement;

“the design and access statement” means the document of that description referred to in Schedule 16 (certification of plans and documents) and certified by the Secretary of State as the design and access statement for the purposes of this Order;

“flood risk assessment” means the document of that description contained in appendix 7.1 of the environmental statement;

“framework site waste management strategy” means the document of that description in appendix 14.2 of the environmental statement;

“ecological mitigation works” means the relocation/translocation of hedgerows, grassland translocation and creation of an artificial badger sett;

“employment scheme” means a scheme for the provision of employment and training for those employed at the authorised development comprising—

- (a) details of how the initial employment opportunities at the authorised development will be advertised and how liaison with the relevant planning authorities and Northamptonshire County Council or any successor body will take place with the objective of maximising access to information about such employment opportunities for the local workforce and, in particular, unemployed persons;
- (b) details of how training opportunities will be provided for employees;
- (c) details of an apprenticeship scheme;
- (d) details of measures to be taken to provide college and/or work placement opportunities for students and unemployed persons within the locality;
- (e) other measures where appropriate (including but not limited to)—
 - (i) a recruitment/training programme for construction employees with a focus on the job centres in locations where employment deprivation has been identified;
 - (ii) provision of skills training; and
 - (iii) preference to be given to procurement of local products and services where efficient, cost effective and lawful; and
- (f) details of the reporting and monitoring of the above measures.

“Euro VI compliant” means compliant with the Euro VI emission standard for the vehicle in question contained in Regulation (EC) No 595/2009;

“HGV monitoring scheme” means a scheme dealing with the location, installation, operation and enforcement of the HGV monitoring system all as described in the transport assessment;

“HGV monitoring system” means a system of monitoring the number, and identity, of any HGV departing from the main site and travelling south along the A508 either by turning right out of the main site access or by turning left out of the main site access and using junction 15 of the M1 motorway to proceed around the roundabout and return along the A508 thus enabling the HGV to travel south along the A508;

“illustrative landscape plan (main site)” means the document of that description contained in chapter 4 of the environmental statement;

“landscape and ecological management plan” means the document of that description contained in appendix 5.12 of the environmental statement;

“lighting strategy” means the document of that description contained in appendix 11.3 of the environmental statement;

“main site built development and landscape surrounds proposed components and sequence plan” means the document of that description contained in chapter 2 of the environmental statement;

“main site phasing plan” means the document of that description contained in chapter 2 of the environmental statement;

“occupation” means occupation of the authorised buildings other than for the purpose of constructing, fitting out, commissioning or site security;

“Rail Central development” means the development of a rail freight interchange (as defined in section 26 of the 2008 Act) on land situated to the west of the Northampton Loop Line and to the north of the West Coast Main Line on the opposite side of the Northampton Loop Line to the authorised development;

“Rail Central footpath connections” means the connections of the footpaths leading from the Rail Central development to footpaths within the authorised development connecting at points A and B as shown on the Rail Central footpath connections plan or any alternative connections agreed between the undertaker (by which expression is meant, for the avoidance of doubt, the undertaker relating to the authorised development as defined in this Order) and the Rail Central undertaker, and approved by the relevant planning authority;

“Rail Central footpath connections plan” means the plan of that description referred to in Schedule 16 (certification of plans and documents) and certified by the Secretary of State as the Rail Central footpath connections plan for the purposes of this Order;

“Rail Central Order” means the order, the title of which is The Rail Central Rail Freight Interchange and Highway Order 20**, in the form approved by the Secretary of State (if approved) pursuant to the application accepted for examination on 15 November 2018 or any amendment to that order or any subsequent development consent order for the Rail Central development;

“Rail Central undertaker” means the undertaker as defined in the Rail Central Order;

“relevant body” means in respect of each of the highway works the body referred to in respect of each of those works in column (4) of the table in requirement 6 (design and phasing of highway works);

“relevant highway authorities” means both the local highway authority and Highways England;

“relevant planning authorities” means all the district planning authorities within whose administrative areas the Order limits lie;

“sustainable drainage statement” means the document of that description contained in appendix 7.3 of the environmental statement;

“sustainable drainage strategy” means the strategy for surface water drainage set out in the sustainable drainage statement;

“sustainability statement” means the document titled sustainability statement for planning contained in appendix 2.2 of the environmental statement;

“sustainable transport working group” means the group the membership, duties and protocol of which is set out in Schedule 15; and

“water framework directive assessment” means the document of that description (document number NGW-BWB-EWE-XX-RP-YE-0004_S2_P2) contained in the statement of common ground dated 2nd November 2018 made between the Environment Agency and Roxhill (Junction 15) Ltd (examination library reference [REP1-015]).

Time limit

2. The authorised development must not commence later than the expiration of 5 years beginning with the date that this Order comes into force.

Components of development and phasing

3.—(1) No component of the authorised development on the main site is to commence until details of the phasing of that component have been submitted to and approved in writing by the relevant planning authority (following consultation with Northampton Borough Council or any successor authority). The components for the purposes of this schedule are—

(a) earthworks;

- (b) rail terminal and related infrastructure;
- (c) roads within the main site;
- (d) surface water and foul drainage;
- (e) development plots;
- (f) landscaping and ecological mitigation;
- (g) permanent advertisements in the locations identified as S1 and S2 on the parameters plan;
- (h) any temporary means of enclosure;
- (i) any temporary site notices or advertisements; and
- (j) services.

(2) The authorised development must be carried out in accordance with the approach to phasing set out on the main site phasing plan and the main site built development and landscape surrounds proposed components and sequence plan unless otherwise agreed in writing with the relevant planning authority.

(3) A rail terminal capable of handling at least four intermodal trains per day, including 775 metre length trains, must be constructed and available for use prior to the occupation of any of the warehousing.

(4) Following the provision of the rail infrastructure no rail infrastructure must be removed which would impede the ability of the rail terminal to handle four goods trains per day unless otherwise agreed in writing by the relevant planning authority.

Sustainable transport

4.—(1) The provisions of the framework travel plan or any variation of such plan agreed by the transport working group must be complied with at all times following the commencement of the authorised development unless otherwise agreed in writing by the relevant planning authority.

(2) Prior to the occupation of each individual warehouse unit an occupier-specific travel plan shall be submitted to and approved in writing by the relevant planning authority. Each specific travel plan must be in accordance with the framework travel plan or any approved variation thereto pursuant to requirement 4(1) and must be complied with at all times following the occupation of the relevant warehouse unit to which it relates.

(3) The public transport strategy must be implemented and complied with at all times.

(4) Where in the framework travel plan or public transport strategy reference is made to employees in the context of sustainable transport measures then that reference must be construed as including all persons attending the authorised development as their usual place of work and shall not be confined solely to persons who are directly employed by an occupier of the authorised development.

(5) The undertaker must use reasonable endeavours to maximise the use of Euro VI compliant HGV and public transport vehicles in respect of—

- (a) any HGV fleets operated by occupiers of the warehouses which visit the warehouses; and
- (b) any public transport service provided pursuant to the public transport strategy and dedicated to serving the authorised development.

(6) Prior to the commencement of the construction of any warehousing the undertaker must establish the sustainable transport working group to discharge the role of that group in relation to the provisions of the framework travel plan and public transport strategy in accordance with the provisions of Schedule 15 (membership, role and protocol of the sustainable transport working group).

(7) The membership, role and protocol of the sustainable transport working group will be as set out in Schedule 15 and the group will be administered by the undertaker, and operated, in accordance with the provisions of Schedule 15.

(8) The sustainable transport working group shall continue its duties until the expiry of five years from full occupation of the authorised development unless otherwise agreed with the relevant planning authorities.

(9) Prior to the occupation of any warehouse the HGV monitoring scheme (including the HGV monitoring system) must be approved in writing by the local highway authority. The monitoring system must be installed in accordance with the approved HGV monitoring scheme and must be operative prior to the occupation of any warehouse. Thereafter the HGV monitoring system must be kept in operation and in good working order at all times and any deficiencies in the operation of the system must be remedied as expeditiously as possible.

Design and phasing of highway works

5.—(1) The highway works must be carried out in accordance with details first submitted to and approved by the relevant body in accordance with the provisions of Parts 2 and 3 of Schedule 13 (protective provisions).

(2) The height of fencing along the Roade bypass (Works No. 13) shall be in accordance with Figure 8.6 of Chapter 8 of the environmental statement.

6. The undertaker must complete the highway works identified in column (1) of the table below by no later than the stage of the authorised development set out in column (3) of the table below or such alternative later triggers as are agreed by the relevant body identified in column (4).

<i>(1) Item as described in Schedule 1</i>	<i>(2) Description</i>	<i>(3) Stage of Development</i>	<i>(4) Relevant Body</i>
7(1)	A508 dualling and main site access roundabout	To be completed prior to the occupation of first warehouse to be occupied	Local highway authority
8(1), (2) and (3)	M1 Junction 15 improvements including A45	To be completed prior to the occupation of first warehouse to be occupied	Highways England
9(1), (2) and (3)	Saxon Avenue, C67 Watering Lane and Collingtree Footpath Bridge (highway works)	To be completed prior to the occupation of first warehouse to be occupied	Local highway authority
11(1)	M1 Junction 15A improvements	Subject to requirement 31 to be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Highways England
11(2)	M1 Junction 15A improvements (A5123)	Subject to requirement 31 to be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority
12(1)	A508 Blisworth Road junction improvement including footway improvements	To be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority
13	A508 Roade Bypass	To be completed	Local highway

		within the earliest of: (i) 2 years of occupation of first warehouse to be occupied; or (ii) 4 years from the commencement of Works No. 8	authority
14	A508/C26 Rookery Lane/ Ashton Road junction improvement	To be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority
15	A508/C85 Pury Road junction improvement	To be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority
16(1) and (2)	Knock Lane/Blisworth Road (Parish of Roade) improvements	To be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority
17	A508 Grafton Regis improvements	To be completed prior to the opening to traffic of the A508 Roade Bypass (Works No. 13)	Local highway authority

Highway alternatives

7. The works described in Works No. 8(2)(b) and shown on Documents 2.4T and 2.4U shall only be constructed as an alternative to those described in Works No. 8(2)(a) and shown on Documents 2.4A and 2.4B in the event that—

- (a) the construction of that part of the M1 J13-16 Smart Motorway Project to be carried out within 1.5 kilometres of J15 (in a northerly and southerly direction) has not commenced and is not programmed to be commenced by Highways England by the expiry of a period of six months from the date upon which the undertaker wishes to commence Works No. 8; and
- (b) the undertaker so elects and serves notice of such election on Highways England, the local highway authority and the relevant planning authority.

Detailed design approval

8.—(1) The details of each component of the authorised development on the main site referred to in requirement 3 must be in accordance with the parameters plan and the principles set out in the design and access statement. The design and access statement can be reviewed and updated by the undertaker in agreement in writing with the relevant planning authority.

(2) No component of the authorised development on the main site (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) is to commence until the details of that component have been submitted to and approved in writing by the relevant planning authority (following consultation with Northampton Borough Council or any successor authority). The details of each component must include details of the following where they are located within that component—

- (a) rail infrastructure and rail terminal (being Works No.1 and 2);
- (b) embankments and bunds;
- (c) hard landscaping, cycle tracks, footpaths and bridleways;
- (d) surface and foul drainage;
- (e) bicycle, motorcycle and vehicle parking (including (i) the location and quantum of electrical charging points which shall comprise a minimum of 5% of total car parking spaces with passive provision provided for a further 15% of the total car parking spaces and (ii) the location of car parking spaces for those car sharing which shall be at least 8% of the total car parking spaces);
- (f) built development design and layout (including external materials, sustainable energy measures and sprinkler systems in accordance with BSEN;12845:2004 unless otherwise agreed in writing with the relevant planning authority);
- (g) location and quantum of bin stores;
- (h) site levels and finished floor levels;
- (i) estate roads;
- (j) weighbridges;
- (k) gatehouses;
- (l) height barrier at the entrance to the main site restricting HGV right turn movement (including operation and maintenance protocol);
- (m) in respect of the aggregates facility measures to provide for water suppression of stockpiles and wheel washing of vehicles;
- (n) permanent advertisements in the locations identified as S1 and S2 on the parameters plan;
- (o) any temporary means of enclosure;
- (p) any temporary site notices or advertisements;
- (q) fencing walls and other means of enclosure (including acoustic fencing) which must be a maximum height of 3 metres;
- (r) design of access points to public rights of way to deter any unauthorised use;
- (s) location of interpretation boards and litter bins;
- (t) substations; and
- (u) telecommunication masts.

9. The details in 8(2)(a) to (u) can be subject to alteration by approval in writing from the relevant planning authority. The authorised development must be carried out in accordance with the details as approved in writing by the relevant planning authority from time to time.

Provision of landscaping

10.—(1) No component of the authorised development on the main site which includes landscaping (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) is to commence until a landscaping scheme for that component has been submitted to and approved in writing by the relevant planning authority (following consultation with Northampton Borough Council or any successor authority). The landscaping scheme must be carried out in accordance with the parameters plan and the landscape and ecological management plan and in accordance with the principles established in the illustrative landscape plan (main site) and must include details of all proposed soft landscaping works, including—

- (a) location, number, species, size, layout, method of trees' support, plant protection measures and planting density of any proposed planting;
- (b) cultivation, importation of materials and other operations to ensure plant establishment;

- (c) details of existing trees to be retained, with measures for their protection during the construction period in accordance with British Standard 5837:2012 “Trees in relation to Design, Demolition and Construction Recommendations”, and to include a schedule of remedial tree works to be carried out in accordance with British Standard 3998:2010; “Tree Works Recommendations” prior to construction commencing;
- (d) details of ecological mitigation; and
- (e) implementation timetable.

Landscape and Ecological Management Plan

11.—(1) The authorised development must be carried out in accordance with the landscape and ecological management plan. The management plan may be subject to alteration by agreement in writing by the relevant planning authority.

(2) The ongoing management and maintenance of the green infrastructure (as described in the landscape and ecological management plan) following their completion must be agreed in writing with the relevant planning authority prior to the occupation of any warehouse, such management and maintenance must be in accordance with the principles set out in the landscape and ecological management plan and must be carried out as approved.

(3) Any ecological works carried out under the landscape and ecological management plan must be supervised by a suitably qualified person or body.

Construction Environmental Management Plan

12.—(1) No part of the authorised development is to commence, including any preparatory earthworks or site levelling but excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation, until a phase-specific construction environmental management plan (“P-CEMP”) for that part of the authorised development, drafted in accordance with the principles set out in the construction environmental management plan, and, insofar as on-site construction plant are concerned, having regard to the principles in “The Institute of Air Quality Management guidance on assessing dust emissions” current from time to time has been submitted to and approved in writing by the relevant planning authority (following consultation with Northampton Borough Council or any successor authority) or the relevant highway authority where the P-CEMP relates to the highway works.

(2) Each P-CEMP is to be reviewed and updated if necessary to address unacceptable impacts arising from construction works. Each P-CEMP (and revision) must be submitted by the undertaker for approval in writing by the relevant planning authority or the relevant highway authority where the P-CEMP (or revision) relates to the highway works. All construction works must be carried out in accordance with the relevant P-CEMP (as revised) as approved.

Earthworks

13. No component of the authorised development on the main site (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) is to commence until details of—

- (a) an earthworks strategy including the management and protection of soils;
- (b) an earthworks specification;
- (c) cutting slopes and embankment design that would accord with the approved earthworks specification;
- (d) the extent of any material to be temporarily stored within the main site; and
- (e) any surplus material to be removed from the main site for disposal or material to be imported to the main site,

have been approved in advance and in writing by the relevant planning authority. The details can be subject to alteration with the approval in writing of the relevant planning authority. All earthworks must be carried out in accordance with the details as approved.

Archaeology and Built Heritage

14.—(1) No part of the authorised development is to commence (with the exception of Works 8(2)(a) and (b)) until the undertaker has commissioned a programme of further exploratory archaeological investigation to identify areas which should be excavated and archaeological remains recorded which has been submitted to and approved in writing by the relevant planning authority. The exploratory investigation must be carried out in accordance with the approved programme and must be timed so that the results can inform the scope of the further archaeological mitigation measures, referred to in sub-paragraph (2).

(2) No part of the authorised development is to commence until a programme of archaeological mitigation measures informed by the exploratory investigations referred to in sub-paragraph (1) and by earlier phases of investigation has been implemented in accordance with a written scheme of mitigation measures which has been approved in writing by the relevant planning authority. The written scheme of mitigation measures must include and make provision for the following elements—

- (a) mitigation fieldwork;
- (b) post-mitigation fieldwork and analysis;
- (c) reporting and dissemination of findings; and
- (d) preparation of site archive, arrangements for deposition and sustainable management at a store approved in writing by the relevant planning authority.

(3) The approved mitigation measures must be carried out in accordance with the written scheme of mitigation measures.

(4) No part of the authorised development on the main site (including demolition works) is to commence until a full Level 2 record of the buildings on the main site to be demolished has been undertaken. The record must be carried out in accordance with a written specification first agreed with the relevant planning authority and prepared by a competent building recorder in accordance with Historic England Understanding Historic Buildings, A Guide to Good Recording Practice, 2010 and must be submitted to the relevant planning authority prior to the commencement of any part of the authorised development on the main site.

Lighting details

15.—(1) Prior to the commencement of each component of the authorised development on the main site which includes permanent lighting, details of the proposed permanent external lighting in that phase must be submitted to and approved in writing by the relevant planning authority (following consultation with Northampton Borough Council or any successor authority). The lighting details must accord with the principles established in the lighting strategy.

(2) The approved lighting scheme must be implemented and maintained as approved in writing by the relevant planning authority during operation of the authorised development and no external lighting other than that approved under this requirement may be installed. The details can be subject to alteration with the approval in writing of the relevant planning authority.

(3) The details submitted under this requirement must include details of any lighting on any gantry cranes included in the component concerned.

Building sustainability

16.—(1) No construction of a warehouse must start until a BREEAM Pre-Assessment Report based upon the BREEAM 2018 method (or equivalent) has been submitted to and approved in writing by the relevant planning authority demonstrating that the warehouse concerned is expected to achieve at least a BREEAM 2018 “Very Good” rating (BREEAM Industrial 2008 “Excellent”).

(2) The construction of each of the warehouses must be carried out in accordance with the details in the BREEAM Pre-Assessment Report (or equivalent) for that warehouse and a certificate must be provided to the relevant planning authority within three months of completion

or occupation (whichever is the sooner) of each warehouse confirming that the measures in respect of that warehouse committed to within the Pre-Assessment Report have been implemented.

(3) The authorised development must comply with the principles set out in the sustainability statement.

Flood risk and surface water drainage

17. The authorised development must be carried out in accordance with the mitigation measures detailed within the flood risk assessment and the water framework directive assessment or be carried out in accordance with any variation to these measures agreed in writing with the Environment Agency, the lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010, whichever of these is the body having jurisdiction over the watercourse in question.

18.—(1) No component of the authorised development on the main site (excluding archaeological investigation, ecological mitigation works and geotechnical or ground contamination investigation) must commence until a surface water drainage scheme for that component based on sustainable drainage principles has been submitted to and approved in writing by the lead local flood authority. The scheme must be in accordance with the sustainable drainage statement and must be informed by additional infiltration testing in accordance with BRE standard 365 “Soakaway design” the extent of which is to be approved in advance by the lead local flood authority, the aim of which is to identify the maximum extent of reliance upon infiltration in accordance with the drainage hierarchy set out in the sustainable drainage strategy.

(2) The surface water drainage scheme must be implemented in accordance with the details approved by the lead local flood authority or in accordance with any variations to the details agreed in writing by the lead local flood authority.

Flood Risk

19. Any element of the authorised development which directly affects any floodplain must not be commenced until such time as a floodplain compensation scheme has been submitted to and approved in writing by the relevant planning authority. The scheme must accord with the principles established in the flood compensation measures set out in the flood risk assessment. Except for the floodplain compensation scheme itself, no above-ground part of the authorised development in any floodplain may be commenced until the relevant compensation scheme has been implemented in full. The scheme must be fully implemented and subsequently maintained in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed in writing by the relevant planning authority.

Foul water drainage

20.—(1) Prior to the commencement of the authorised development on the main site, excluding earthworks, archaeological investigation or ecological mitigation works, a foul water drainage strategy must be submitted to and approved in writing by the relevant planning authority. Except where it is constructed in accordance with the approved foul water drainage strategy, no component of the authorised development is to commence until written details of the foul water drainage system for that component have been submitted to and approved in writing by the relevant planning authority. Such details must be implemented as approved by the relevant planning authority.

(2) Works No. 10 must be completed prior to first occupation.

Construction hours

21.—(1) Subject to sub-paragraph (2) construction and demolition works on the main site (which for the purposes of this requirement excludes archaeological investigations and any non-intrusive internal fit-out works but must include start up and shut down and deliveries) must not take place other than between 07:00 and 19:00 hours on weekdays and 07:00 and 16:00 hours on

Saturdays and not at all on Sundays nor on public holidays, unless otherwise agreed in writing by the relevant planning authority. Outside the above periods the following working is permitted—

- (a) pre-planned construction works to highway or rail infrastructure requiring possessions where first notified to the relevant planning authority and local residents;
- (b) emergency works; and
- (c) works which do not give rise to noise or vibration which cause an adverse impact at the boundary of the main site.

(2) Regardless of sub-paragraph (1) no piling operations are to take place before 08:00 and after 18:00 hours on weekdays and before 08:00 and after 13:00 on Saturdays and not at all on Sundays nor on public holidays unless otherwise agreed in writing by the relevant planning authority.

(3) Any emergency works carried out under sub-paragraph (1)(b) must be notified to the relevant planning authority within 72 hours of their commencement.

Construction noise

22. The management of construction noise must be carried out in accordance with the relevant phase-specific construction environmental management plan. If required by the relevant planning authority, consents under Section 61 of the Control of Pollution Act 1974 shall be sought for the works or specific phases of the works.

Noise during the operational phase

23.—(1) Prior to installation, details of all mechanical and ventilation plant and any other noise-making machinery or mobile plant (including for the avoidance of doubt HGV chiller units) that is intended to be used on any of the warehouses or other buildings within the main site must be submitted to and approved by the relevant planning authority. This will include an assessment of the expected noise impact at relevant receptors using a methodology first approved in writing by the relevant planning authority. The assessment will consider noise from the proposed plant and machinery to demonstrate compliance with Government and local policy on noise. Any fixed plant or ventilation equipment must be installed and operated in accordance with manufacturers' instructions at all times.

(2) The undertaker must during the course of 2032 carry out a scheme of monitoring of the operational railway noise arising from the use of the authorised development. The scheme of monitoring must first be approved by the relevant planning authority and be designed to establish whether there is a significant adverse effect (as defined in paragraph 8.3.32 of Chapter 8 of the environmental statement) at any residential property arising from night-time maximum levels. In the event of there being significant adverse effects as a result of the use of the authorised development the undertaker must agree with the relevant planning authority a noise insulation scheme for the properties concerned, based on the principles of the 1996 Regulations, and must implement the agreed scheme in accordance with a timetable agreed with the relevant planning authority.

(3) In the event that between 2032 and 2042 there is an increase in the number of train movements at night arising from the use of the authorised development the undertaker must during the course of 2042 carry out a scheme of monitoring of the operational railway noise arising from the use of the authorised development. The scheme of monitoring must first be approved by the relevant planning authority and be designed to establish whether there is a significant adverse effect (as defined in paragraph 8.3.32 of chapter 8 of the environmental statement) at any residential property arising from night-time maximum levels. In the event of there being significant adverse effects as a result of the use of the authorised development the undertaker must agree with the relevant planning authority a noise insulation scheme for the properties concerned, based on the principles of the 1996 Regulations, and must implement the agreed scheme in accordance with a timetable agreed with the relevant planning authority.

Monitoring of complaints

24. In the event that complaints regarding alleged noise nuisance are received by the relevant planning authority during the construction and operational phase, the undertaker must, unless otherwise agreed in writing with the relevant planning authority, at its own expense, employ a consultant approved by the relevant planning authority to carry out an assessment of the noise which is the subject of the complaint. The assessment must be carried out according to an appropriate methodology agreed with the relevant planning authority and the results of the assessment must be submitted to the relevant planning authority within 28 days of the assessment being completed. If it is found that the effect of noise from the authorised development is greater than was anticipated, recommendations for appropriate remedial measures must be made.

Contamination risk

25.—(1) None of the authorised development is to commence on any specifically identified localised areas of land within the Order limits potentially affected by contamination as identified within the desk study contained within chapter 6 of the environmental statement until further investigations and a Risk Based Land Contamination Assessment (Geo-environmental Interpretative Report) has been undertaken in line with the recommendations made within the desk study for that localised area of the Order limits and this has been submitted to and approved in writing by the relevant planning authority. The Risk Based Land Contamination Assessment must be carried out in accordance with the Environment Agency CLR 11 2004a 'Model Procedures for the Management of Land Contamination' (Contaminated Land Risk Assessment).

(2) Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remediation Strategy Scheme also detailing a proposed Verification Works Plan must be prepared and submitted to and agreed in writing by the relevant planning authority. The Remedial Scheme must be prepared in accordance with the requirements of CLR 11. The Verification Plan must be prepared in accordance with the requirements of—

- (a) Evidence Report on the Verification of Remediation of Land Contamination Report SC030114/R1, published by the Environment Agency 2010; and
- (b) CLR 11.

(3) If, during the course of construction, previously unidentified contamination is discovered, construction must cease on that localised area of land within the Order limits and the contamination must be reported in writing to the relevant planning authority within 10 working days. Prior to the recommencement of construction on that localised area of land within the Order limits, suitable investigation and Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the relevant planning authority. The authorised development must then be implemented in accordance with the details approved by the relevant planning authority and, unless otherwise agreed in writing by the relevant planning authority, retained as such in perpetuity.

26.—(1) Prior to the use of any part of the completed authorised development either—

- (a) if no remediation scheme or verification was required under requirement 25 (contamination risk) a statement from the undertaker, or their approved agent, must be provided to the relevant planning authority, stating that no previously unidentified contamination was discovered during the course of construction of that part of the completed authorised development; or
- (b) if a remediation scheme and verification plan were agreed under requirement 25 for the relevant part of the completed authorised development, a Verification Investigation must be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to that part of the authorised development must be submitted to and approved in writing by the relevant planning authority.

(2) The Verification Investigation Report must—

- (a) contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- (b) contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- (c) contain Movement Permits for all materials taken to and from the land within the Order limits and a copy of the completed site waste management plan if one was required;
- (d) contain Test Certificates of imported material to show that it is suitable for its proposed use;
- (e) demonstrate the effectiveness of the approved Remedial Scheme; and
- (f) include a statement signed by the undertaker, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

Waste management during the operational phase

27. No component of the authorised development on the main site may be brought into use until a scheme for waste management for that component has been submitted to and approved in writing by the relevant planning authority. The schemes, which must be in accordance with the framework site waste management strategy, may be amended by agreement with the relevant planning authority. The approved schemes must be implemented and maintained for the duration of the operation of that component of the authorised development.

Employment

28.—(1) Prior to the commencement of the construction of any part of the authorised development an employment scheme in respect of employees to be involved in the construction of that part of the authorised development must be submitted to and approved in writing by the relevant planning authority.

(2) Prior to the first occupation and any subsequent change in occupation of any warehouse an employment scheme, in respect of employees to be employed in that warehouse, must be submitted to and approved in writing by the relevant planning authority.

(3) The approved employment schemes in respect of employees to be involved in construction of the authorised development and in each warehouse must be implemented and complied with at all times.

Community Liaison Group

29.—(1) Prior to the commencement of the authorised development the undertaker must establish a community liaison group to facilitate liaison between various bodies in relation to the construction and operation of the authorised development.

(2) The following parties must be provided with the opportunity to participate in the community liaison group—

- (a) the undertaker;
- (b) the relevant planning authorities;
- (c) the relevant highway authorities;
- (d) representatives from Roade Parish Council, Blisworth Parish Council, Milton Malsor Parish Council and Collingtree Parish Council; and
- (e) any other stakeholder that the relevant planning authorities wish to be included,

(3) The community liaison group must be administered by the undertaker, and operated, in accordance with a protocol agreed with the relevant planning authorities prior to the commencement of the authorised development.

(4) The community liaison group shall continue to meet until the expiry of five years from full occupation of the authorised development unless otherwise agreed with the relevant planning authorities.

Rail Central

30. If the Rail Central Order is approved by the Secretary of State the undertaker must allow the Rail Central footpath connections to be made by the Rail Central undertaker in conjunction with the carrying out of the Rail Central development in accordance with a timetable agreed with the relevant planning authority in consultation with the Rail Central undertaker the objective of such timetable to be to allow the timely provision of the Rail Central footpath connections consistent with the minimisation of any disruption to the construction or operation of the authorised development or development authorised by the Rail Central Order.

31. The undertaker must give Highways England and the local highway authority nine months' prior notice in writing of the commencement of Works No. 11 and if within the period of three months following the service of that notice Highways England and the local highway authority both notify the undertaker that Works No.11 should not be carried out due to the works authorised by the Rail Central Order being considered sufficient by Highways England and the local highway authority to mitigate the impacts of both the Rail Central development and the authorised development then there will thereafter be no requirement to carry out the works comprising Works No.11 and the entries in respect of Works No. 11 in the table in requirement 6 shall no longer have effect.

32. If the Rail Central Order is approved by the Secretary of State prior to the approval of the details of works comprised in Works No. 1 (1) (d) under requirement 8, the relevant planning authority will only approve the details if satisfied that the works are compatible with the Rail Central development (meaning that the works do not prevent the construction of a new railway line from the Rail Central development to connect with the existing Northampton Loop railway line).

PART 2

Article 45

PROCEDURE FOR APPROVALS ETC. UNDER REQUIREMENTS

Applications made for certain approvals

1.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval required or contemplated under the requirements the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(2) For the purposes of sub-paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph 2, eight weeks from the day immediately following that on which the application is received by the discharging authority;
- (b) where further information is requested under paragraph 2, eight weeks from the day immediately following that on which the further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in paragraph (a) or (b).

Further information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary it must, within 20 working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the discharging authority does not give such notification as specified in sub-paragraph (2) it is to be deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

Fees

3.—(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, a fee calculated in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 as amended from time to time as though the application were a reserved matter application is to be paid to that authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 42 days of—

- (a) the application being rejected as invalidly made; or
- (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

Appeals

4.—(1) The undertaker may appeal in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required or contemplated under the requirements or grants it subject to conditions;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period specified in paragraph 1;
- (c) on receipt of a request for further information under paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must within 7 working days provide copies of the appeal documentation to the discharging authority and the requirement consultees;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”)(a) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (d) the discharging authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 working days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each

(a) Appointed by the Planning Inspectorate on behalf of the Secretary of State.

other and to the undertaker on the day on which they are submitted to the appointed person;

- (e) the appeal parties shall make any counter-submissions to the appointed person within 20 working days of receipt of written representations under paragraph (d)

(3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(4) The appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(5) If the appointed person considers that further information is necessary to enable consideration of the appeal the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(6) Any further information required under sub-paragraph (5) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 working days of that date.

(7) On an appeal under this paragraph, the appointed person must—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(8) The appointed person must proceed to a decision on an appeal taking into account only such written representations as have been sent within the prescribed time limits, or set by the appointed person under this paragraph.

(9) The appointed person must proceed to a decision even though no written representations have been made within the prescribed time limits.

(10) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(11) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of any consent, agreement or approval required under the requirement as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(12) Except where a direction is given under sub-paragraph (13) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the undertaker^(a).

(13) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

(a) The costs of the appointed person are calculated based on the applicable day rate for a Single Inspector as if he or she were appointed under s78/ s79 of the PA2008. See the National Infrastructure Planning website for more information: <https://infrastructure.planninginspectorate.gov.uk/application-process/application-fees/>

Interpretation of Part 2 of Schedule 2

5. In this Schedule—

“appeal documentation” means the application submitted to the discharging authority, any further information submitted under paragraph 2 and any notice of a decision to refuse;

“the appeal parties” means the discharging authority, the undertaker and any requirement consultees;

“discharging authority” means the authority from whom a consent, approval or agreement is required or requested by the undertaker under the requirement concerned;

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement; and

“working day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971.

SCHEDULE 3

Article 8

STREETS SUBJECT TO STREET WORKS

(1) Area	(2) <i>Street within the Order limits subject to street works</i>
District of South Northamptonshire	M1 motorway
	A43
	A45
	A508
	C26 Ashton Road
	C26 Rookery Lane
	C27 Stoke Road
	C85 Pury Road
	Blisworth Road (Parish of Courteenhall)
	Blisworth Road (Parish of Roade)
	Knock Lane
	Saxon Avenue
	Unnamed road to Quinton off the A508
Borough of Northampton	M1 motorway
	A43
	A45
	A5123
	C67 Watering Lane

SCHEDULE 4

Article 10

STREETS TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1)	(2)	(3)	(4)

<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of stopping up</i>	<i>New street to be substituted</i>
District of South Northamptonshire and Borough of Northampton	M1 motorway slip road	The existing highway within the area marked i on the access and rights of way plans (Document 2.3B) shown edged blue with red and white hatching.	Proposed highway M1 within the area marked ii on the access and rights of way plans (Inset 2A of Document 2.3B) shown edged blue with blue hatching.
District of South Northamptonshire	Blisworth Road (Parish of Roade)	The existing highway within the area marked iii on the access and rights of way plans (Document 2.3D) shown edged blue with red and white hatching.	(i) Proposed highway within the area marked iv on the access and rights of way plans (Inset 4B of Document 2.3D) shown edged blue with orange hatching; (ii) Proposed highway A508 within the area marked v on the access and rights of way plans (Inset 4B of Document 2.3D) shown edged blue with orange hatching; and (iii) Proposed highway within the area marked vi on the access and rights of way plans (Inset 4B of Document 2.3D) shown edged blue with orange hatching.
	A508 highway	The existing highway within the area marked vii on the access and rights of way plans (Document 2.3E) shown edged blue with red and white hatching.	(i) Proposed highway within the area marked viii on the access and rights of way plans (Inset 5A of Document 2.3E) shown edged blue with orange hatching; and (ii) Proposed highway A508 within the area marked ix on the access and rights of way plans (Inset 5A of Document 2.3E) shown edged blue with orange hatching.
	A508 highway	The existing highway within the area marked x on the access and rights of way plans (Document 2.3E) shown edged blue with red and	Proposed highway A508 within the area marked xi on the access and rights of way plans (Inset 5C of Document 2.3E) shown edged blue with orange hatching.

		white hatching.	
	C26 Rookery Lane	The existing highway within the area marked xii on the access and rights of way plans (Document 2.3E) shown edged blue with red and white hatching.	Proposed highway C26 within the area marked xiii on the access and rights of way plans (Inset 5C of Document 2.3E) shown edged blue with orange hatching.
	C26 Ashton Road	The existing highway within the area marked xiv on the access and rights of way plans (Document 2.3E) shown edged blue with red and white hatching.	Proposed highway C26 within the area marked xv on the access and rights of way plans (Inset 5C of Document 2.3E) shown edged blue with orange hatching.

SCHEDULE 5

Article 12

PUBLIC RIGHTS OF WAY

PART 1

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Public right of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) Substitute to be provided</i>	<i>(5) Stage of the authorised development by which time the stopping up must be completed</i>
Parish of Milton Malsor	Public footpath KX13 (part)	The existing footpath between the points marked 1-2-3 on the access and rights of way plans (Document 2.3A) shown with a dashed red line.	Proposed public footpath between the points marked 1-6-7-3 on the access and rights of way plans (Document 2.3A) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the	Completion of Works No. 6

<i>(1) Area</i>	<i>(2) Public right of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) Substitute to be provided</i>	<i>(5) Stage of the authorised development by which time the stopping up must be completed</i>
			local highway authority.	
	Public footpath KX13 (part)	The existing footpath between the points marked 3-4 on the access and rights of way plans (Document 2.3A) shown with a dashed red line.	Proposed cycle track between the points marked 33- 34 on the access and rights of way plans (Inset 1A of Document 2.3A) shown with a dashed pink line.	Completion of Works No. 9
Parish of Collingtree	Public footpath KG5	The existing footpath between the points marked 4-5 on the access and rights of way plans (Document 2.3A) shown with a dashed red line.	Proposed cycle track between the points marked 34- 35 on the access and rights of way plans (Inset 1A of Document 2.3A) shown with a dashed pink line.	Completion of Works No. 9
Parish of Milton Malsor	Public footpath KX17	The existing footpath between the points marked 2-31 on the access and rights of way plans (Document 2.3A and 2.3C) shown with a dashed red line.	Proposed cycle track between the points marked 33- 32-8-28-29 on the access and rights of way plans (Documents 2.3A, (including Inset 1A) 2.3B and 2.3C) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the local highway authority.	Completion of Works No. 6
Parish of Roade	Public footpath KZ2a (part)	The existing footpath between the points marked 14-15 on the access and rights of way plans (Document 2.3D) shown with a dashed red line.	(i) Proposed public footpath between the points marked 14-16 on the access and rights of way plans (Document 2.3D) shown indicatively with a dashed and dotted brown line on a detailed	Completion of Works No. 13

(1) Area	(2) Public right of way to be stopped up	(3) Extent of stopping up	(4) Substitute to be provided	(5) Stage of the authorised development by which time the stopping up must be completed
			alignment to be agreed with the local highway authority; and (ii) Proposed public footpath between the points marked 17-15 on the access and rights of way plans (Document 2.3D) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the local highway authority.	
	Public bridleway KZ10 (part)	The existing bridleway between the points marked 18-19 on the access and rights of way plans (Document 2.3D) shown with a dashed red line.	Proposed public bridleway between the points marked 18-21 on the access and rights of way plans (Document 2.3D) shown indicatively with an unbroken yellow line on a detailed alignment to be agreed with the local highway authority.	Completion of Works No. 13
Parish of Stoke Bruerne	Public bridleway RZ1 (part)	The existing bridleway between the points marked 19-20 on the access and rights of way plans (Document 2.3D) shown with a dashed red line.	Proposed public bridleway between the points marked 21-20 on the access and rights of way plans (Document 2.3D) shown indicatively with an unbroken yellow line on a detailed alignment to be agreed with the local highway authority.	Completion of Works No. 13

PART 2

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Public right of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) Stage of the authorised development</i>
Parish of Roade	Public footpath KZ19 (part)	The existing footpath between the points marked 12-13 on the access and rights of way plans (Document 2.3D) shown with a dashed red line.	Commencement of Works No. 13
Parish of Stoke Bruerne	Public footpath RZ3 (part)	The existing footpath between the points marked 23-24 on the access and rights of way plans (Document 2.3D) shown with a dashed red line.	Commencement of Works No. 13
	Public bridleway RZ6 (part)	The existing bridleway between the points marked 25-26 on the access and rights of way plans (Inset 5A of Document 2.3E) shown with a dashed red line.	Commencement of Works No. 13

PART 3

NEW PUBLIC RIGHTS OF WAY TO BE CREATED

<i>(1) Area</i>	<i>(2) Public right of way to be created</i>	<i>(3) Extent of new public right of way to be created</i>	<i>(4) Stage of the authorised development</i>
Parish of Roade	Cycle track	Proposed cycle track between the points marked 18-22 on the access and rights of way plans (Document 2.3D) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the local highway authority and constructed as part of Works No. 13.	Completion of Works No. 13
Parish of Milton Malsor	Public footpath	Proposed public footpath between the points marked 6-27 of the access	Completion of Works No. 6

		and rights of way plans (Document 2.3A) shown indicatively with a dashed and dotted brown line detailed alignment to be agreed with the local highway authority and constructed as part of Works No. 6.	
	Cycle track	Proposed cycle track between the points marked 28-30 on the access and rights of way plans (Document 2.3B) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the local highway authority and constructed as part of Works Nos. 4, 5 and 6.	Completion of Works No. 7
	Cycle track	Proposed cycle track between the points marked 9-10 on the access and rights of way plans (Document 2.3C) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the local highway authority and constructed as part of Works No. 4.	Completion of Works No. 6
	Public footpath	Proposed public footpath between the points marked 10-11-1 on the access and rights of way plans (Documents 2.3A and 2.3C) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the local highway authority and constructed as part of Works Nos. 4 and 6.	Completion of Works No. 6

SCHEDULE 6

Article 13

PRIVATE MEANS OF ACCESS

PART 1

PRIVATE MEANS OF ACCESS TO BE REPLACED

<i>(1) Area</i>	<i>(2) Extent</i>	<i>(3) Replacement</i>	<i>(4) Stage of the authorised development</i>
District of South Northamptonshire	The private means of access shaded purple and marked F on the access and rights of way plans (Document 2.3B).	The private means of access hatched turquoise and marked G on the access and rights of way plans (Document 2.3B).	Completion of Works No. 7
	The private means of access shaded purple and marked K on the access and rights of way plans (Document 2.3C).	The private means of access hatched turquoise and marked L on the access and rights of way plans (Document 2.3C).	Completion of Works No. 7
	The private means of access shaded purple and marked N on the access and rights of way plans (Document 2.3C).	The private means of access hatched turquoise and marked P on the access and rights of way plans (Document 2.3C).	Completion of Works No. 7
	The private means of access shaded purple and marked Q on the access and rights of way plans (Document 2.3C).	The private means of access hatched turquoise and marked R on the access and rights of way plans (Document 2.3C).	Completion of Works No. 7
	The private means of access shaded purple and marked S on the access and rights of way plans (Document 2.3D).	The private means of access hatched turquoise and marked T on the access and rights of way plans (Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked U on the access and rights of way plans (Document 2.3D).	The private means of access hatched turquoise and marked V on the access and rights of way plans (Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked Won the access and rights of way plans (Inset 4C of Document 2.3D).	The private means of access hatched turquoise and marked X on the access and rights of way plans (Inset 4D of Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked Y on the access and rights of way plans (Inset 4C of Document 2.3D).	The private means of access hatched turquoise and marked Z on the access and rights of way plans (Inset 4D of Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked AA on the access and rights of way plans	The private means of access hatched turquoise and marked AB on the access and	Completion of Works No. 13

	(Inset 4C of Document 2.3D).	rights of way plans (Inset 4D of Document 2.3D).	
	The private means of access shaded purple and marked AD on the access and rights of way plans (Inset 4C of Document 2.3D).	The private means of access hatched turquoise and marked AF on the access and rights of way plans (Inset 4D of Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked AE on the access and rights of way plans (Inset 4C of Document 2.3D).	The private means of access hatched turquoise and marked AX on the access and rights of way plans (Inset 4B of Document 2.3D).	Completion of Works No. 13
	The private means of access shaded purple and marked AJ on the access and rights of way plans (Inset 5B of Document 2.3E).	The private means of access hatched turquoise and marked AK on the access and rights of way plans (Inset 5B of Document 2.3E).	Completion of Works No. 13
	The private means of access shaded purple and marked AL on the access and rights of way plans (Inset 5A of Document 2.3E).	The private means of access hatched turquoise and marked AM on the access and rights of way plans (Inset of 5B of Document 2.3E).	Completion of Works No. 13
	The private means of access shaded purple and marked AN on the access and rights of way plans (Inset 5B of Document 2.3E).	The private means of access hatched turquoise and marked AP on the access and rights of way plans (Inset 5B of Document 2.3E).	Completion of Works No. 13
	The private means of access shaded purple and marked AS on the access and rights of way plans (Inset 5C of Document 2.3E).	The private means of access hatched turquoise and marked AT on the access and rights of way plans (Inset 5D of Document 2.3E).	Completion of Works No. 14
	The private means of access shaded purple and marked AU on the access and rights of way plans (Inset 5C of Document 2.3E).	The private means of access hatched turquoise and marked AV on the access and rights of way plans (Inset 5D of Document 2.3E).	Completion of Works No. 14

PART 2

PRIVATE MEANS OF ACCESS TO BE CLOSED FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Private Means of Access</i>	<i>(3) Stage of the authorised development</i>
District of South Northamptonshire	The private means of access shaded purple and marked A on the access and rights of way plans (Document 2.3A).	Commencement of Works No. 6
	The private means of access shaded purple and marked B on the access and rights of way plans (Document 2.3A).	Commencement of Works No. 6
	The private means of access shaded purple and marked E on the access and rights of way plans (Document 2.3B).	Commencement of Works No. 6
	The private means of access shaded purple and marked H on the access and rights of way plans (Document 2.3B).	Commencement of Works No. 6
	The private means of access shaded purple and marked J on the access and rights of way plan (Document 2.3C).	Commencement of Works No. 7
	The private means of access shaded purple and marked AQ on the access and rights of way plans (Inset 5B of Document 2.3E).	Commencement of Works No. 13
	The private means of access shaded purple and marked AW on the access and rights of way plans (Document 2.3A).	Commencement of Works No. 6
Borough of Northampton	The private means of access shaded purple and marked D on the access and rights of way plans (Document 2.3B).	Commencement of Works No. 8

PART 3

NEW PRIVATE MEANS OF ACCESS CREATED

<i>(1) Area</i>	<i>(2) Private Means of Access</i>	<i>(3) Stage of the authorised development</i>
District of South Northamptonshire	The private means of access hatched turquoise and marked M on the access and rights of way plans (Document 2.3C).	Completion of Works No. 7
	The private means of access hatched turquoise and marked AG on the access and rights of way plans (Document 2.3D).	Completion of Works No. 13
	The private means of access	Completion of

	hatched turquoise and marked AH on the access and rights of way plans (Document 2.3D).	Works No. 13
	The private means of access hatched turquoise and marked AR on the access and rights of way plans (Inset 4A of Document 2.3D).	Completion of Works No. 13

SCHEDULE 7

CLASSIFICATION OF HIGHWAYS

Article 15

PART 1

NEW HIGHWAYS

<i>(1) Area</i>	<i>(2) Extent of Highway</i>	<i>(3) Classification</i>	<i>(4) Classes of Traffic</i>	<i>(5) Relevant Highway Authority</i>
District of South Northamptonshire and Borough of Northampton	The length of highway the centreline of which is shown coloured light blue and between the points 3 and 4 on the highway classification plans (Document 2.5A).	Special Road	Class I and II	Highways England
In the District of South Northamptonshire	The length of highway the centreline of which is shown coloured dark green and following a circular route around points 11, 12 and returning to 11 on the highway classification plans (Document 2.5B).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and between the points 12 and 13 on the highway classification plans (Documents 2.5B and 2.5C).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and following a circular route around points 13, 14, 15, 16 and returning to 13 on the highway classification plans (Document 2.5C).	Principal	All purpose	The local highway authority
	The length of highway the	Unclassified	All purpose	The local

	centreline of which is shown coloured brown and between the points 14 and 18 on the highway classification plans (Document 2.5C).			highway authority
	The length of highway the centreline of which is shown coloured brown and between the points 16 and 17 on the highway classification plans (Document 2.5C).	Unclassified	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and between the points 15 and 19 on the highway classification plans (Document 2.5C).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and following a circular route around points 19, 20, 21 and returning to 19 on the highway classification plans (Document 2.5C).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured pink and between the points 20 and 22 on the highway classification plans (Document 2.5C).	Classified	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and between the points 21 and 23 on the highway classification plans (Document 2.5C).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured dark green and between the points 24 to 27 on the highway classification plans (Document 2.5D).	Principal	All purpose	The local highway authority
	The length of highway the centreline of which is shown coloured pink and between the points 25 and 28 on the highway classification plans (Document 2.5D).	Classified	All purpose	The local highway authority

	The length of highway the centreline of which is shown coloured pink and between the points 26 and 29 on the highway classification plans (Document 2.5D).	Classified	All purpose	The local highway authority

PART 2

EXISTING HIGHWAYS

<i>(1) Area</i>	<i>(2) Extent of Highway</i>	<i>(3) (i) Current Classification (ii) Highway Authority</i>	<i>(4) Event determining change of classifi- cation</i>	<i>(5) Proposed Classif- ication</i>	<i>(6) Classes of Traffic</i>	<i>(7) Highway Authority</i>
In the District of South Northampton shire	The length of highway the centreline of which is shown coloured dark blue and between the points 1 and 2 on the highway classification plans (Document 2.5A).	(i) All Purpose Trunk Road (ii) Highways England	Opening to traffic of the length of highway stated in column (2).	Special Road	Class I and Class II	Highways England
	The length of highway the centreline of which is shown coloured orange and between the points 5 and 6 on the highway classification plans (Document 2.5A).	(i) Unclassified Road (ii) The local highway authority	Commence-ment of Works No. 8 shown on the works plans (Documents 2.2A and 2.2B).	Trunk Road	All purpose	Highways England
	The length of highway the centreline of which is shown coloured dark	(i) All Purpose Trunk Road (ii) Highways England	Opening to traffic of the length of highway stated in column (2).	Special Road	Class I and Class II	Highways England

	blue and between the points 7 and 8 on the highway classification plans (Document 2.5A).					
	The length of highway the centreline of which is shown coloured orange and between the points 9 and 10 on the highway classification plans (Document 2.5A).	(i) Principal Road (ii) The local highway authority	Commencement of Works No. 8 shown on the works plans (Documents 2.2A and 2.2B).	Trunk Road	All purpose	Highways England

SCHEDULE 8

Article 16

SPEED LIMITS

PART 1

EXISTING ORDERS

(1) <i>Statutory Instrument / Order Title</i>	(2) <i>S.I. Number</i>	(3) <i>Changes</i>	(4) <i>Event</i>
Northamptonshire County Council (A508 Northampton to Old Stratford Road, Northampton) (40 mph Speed Limit) Order 2000		To be revoked in its entirety.	Opening to traffic of the highway works within Works No. 8
The A45 Trunk Road (Thrapston to Northampton, Northamptonshire) (Derestriction) Order 2011	2011 No. 592	(i) In the Schedule omit paragraph 16 and substitute – “16. the southbound carriageway of the A45 from a point 133 metres southwest of its junction with the exit slip road leading to its roundabout junction with the A508 and B526, known as Queen Eleanor	Opening to traffic of the highway works within Works No. 8

		Roundabout, Northampton, to a point 390 metres north of the junction between the A45 and Watering Lane;”; (ii) In the Schedule omit paragraph 17 and substitute – “17. the northbound carriageway of the A45 from a point 390 metres north its junction with Watering Lane, to a point 138 metres south of its junction with the entry slip road leading from Queen Eleanor Roundabout;”; and (iii) In the Schedule omit paragraph 22 in its entirety.	
The Northamptonshire County Council (Various Roads, South Northamptonshire District and Northampton Borough) (30mph, 40mph and 50mph speed limit) Order 2013		In Schedule 3 omit “Northampton Road, Roade / Courteenhall – from a point 50 metres north of its junction with London Road to a point 30 metres north of its junction with Blisworth Road” and substitute – “Northampton Road, Roade / Courteenhall – from its roundabout junction with the Roade Bypass to a point 30 metres north of its junction with the unnamed road to Quinton”.	Opening to traffic of the Roade Bypass constructed as part of Works No. 13
		In Schedule 3 omit “Stratford Road, Roade / Northampton Road, Stoke Bruerne – a point 512 metres south of its junction with High Street, Roade for a distance of 2.5 kilometres in a southerly direction.” and substitute – “Northampton Road, Stoke Bruerne – a point 250 metres south of the roundabout junction between the A508 Roade Bypass and Stratford Road for a distance of 1.75 kilometres in a	Opening to traffic of the Roade Bypass constructed as part of Works No. 13

	southerly direction.”	

PART 2

HIGHWAYS SUBJECT TO 50MPH SPEED LIMIT

<i>(1) Location</i>	<i>(2) Description</i>	<i>(3) Event</i>
A45 Northbound	From a point 80 metres north of the M1 overbridge to a point 390 metres north of the junction between the A45 and Watering Lane; the centreline of which is shown coloured green between points A and B as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 8
A45 Southbound	From a point 390 metres north of the junction between the A45 and Watering Lane to a point 115 metres north of the M1 overbridge; the centreline of which is shown coloured green between points C and E as shown on the speed limit plans (Document 2.7A)	Completion of Works No. 8
A45 Southbound merge slip road from the Bridge Meadow Way roundabout	From a point 165 metres north of the merge with the A45 southbound to the merge itself; the centreline of which is shown coloured green between points F and D as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 8
A45 signalised roundabout at M1 Junction 15	The circulatory carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at M1 Junction 15; the centreline of which is shown coloured green between points E, G, H, J, K, L, A and returning to E as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 8
Link road within A45 signalised roundabout at M1 Junction 15	The link road within the circulatory carriageway at the junction between the A45, A508 and M1 slip roads at M1 Junction 15; the centreline of which is shown coloured green between points H and L as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 8
Saxon Avenue	From the junction between Saxon Avenue and the circulatory carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at M1 Junction 15 to a point 30 metres west of that junction; the centreline of which is shown coloured green between points G and M as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 8
A508 Northbound	From the roundabout junction between the A508 and the main site access road to the junction with the circulatory carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at M1 Junction 15; the centreline of which is shown coloured orange between points N and P as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 7
A508 Southbound	From the junction with the circulatory	Completion

	carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at M1 Junction 15 to the roundabout junction between the A508 and the main site access road; the centreline of which is shown coloured orange between points Q and R as shown on the speed limit plans (Document 2.7A).	of Works No. 7
A508 Northampton Road and rail terminal access road roundabout	The circulatory carriageway of the roundabout junction between the main site access road and Northampton Road; the centreline of which is shown coloured orange between points N, R, S and returning to N as shown on the speed limit plans (Document 2.7A).	Completion of Works No. 7
A508 Northampton Road	From the roundabout junction between the A508 and the main site access road to a point 30 metres north of the junction between the A508 and the unnamed road to Quinton; the centreline of which is shown coloured orange between points S and T as shown on the speed limit plans (Documents 2.7A and 2.7B).	Completion of Works No. 7
A508 Roade Bypass and Northampton Road roundabout	The circulatory carriageway of the roundabout junction between the A508 Roade Bypass and Northampton Road; the centreline of which is shown coloured orange between points U, AL, V and returning to U as shown on the speed limit plans (Document 2.7B).	Completion of Works No. 13
Stratford Road	From a point 512 metres south of the junction between Stratford Road and High Street to the roundabout junction between the A508 Roade Bypass and Stratford Road; the centreline of which is shown coloured orange between points AG and AJ as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
A508 Roade Bypass and Stratford Road roundabout	The circulatory carriageway of the roundabout junction between the A508 Roade Bypass and Stratford Road; the centreline of which is shown coloured orange between points AF, AG, AH and returning to AF as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
A508	From a point 250 metres south of the roundabout junction between the A508 Roade Bypass and Stratford Road to that junction; the centreline of which is shown coloured orange between points AH and AK as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
Northampton Road	From the roundabout junction between the A508 Roade Bypass and Northampton Road to a point 162 metres south of that roundabout; the centreline of which is shown coloured orange between points AL and AM as shown on the speed limit plans (Document 2.7B).	Completion of Works No. 13

PART 3

DERESTRICTED HIGHWAYS

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
A508 Roade Bypass	From the roundabout junction between the A508 Roade Bypass and Northampton Road to a point 140 metres west of that junction; the centreline of which is shown coloured light blue between points V and W as shown on the speed limit plans (Document 2.7B).	Completion of Works No. 13
A508 Roade Bypass	From a point 140 metres north of the roundabout junction between the A508 Roade Bypass and Blisworth Road (Parish of Roade) to that junction; the centreline of which is shown coloured light blue between points X and Y as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
A508 Roade Bypass and Blisworth Road roundabout	The circulatory carriageway of the roundabout junction between the Roade Bypass and Blisworth Road (Parish of Roade); the centreline of which is shown coloured light blue between points Y, Z, AA, AB and returning to Y as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
A508 Roade Bypass	From a point 140 metres south of the roundabout junction between the A508 Roade Bypass and Blisworth Road (Parish of Roade) to that junction; the centreline of which is shown coloured light blue between points AA and AD as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
Blisworth Road (Parish of Roade)	From a point 140 metres west of the roundabout junction between the Roade Bypass and Blisworth Road (Parish of Roade) to that junction; the centreline of which is shown coloured light blue between points AB and AC as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13
A508 Roade Bypass	From a point 140 metres north of the roundabout junction between the A508 Roade Bypass and Northampton Road to that junction; the centreline of which is shown coloured light blue between points AE and AF as shown on the speed limit plans (Document 2.7C).	Completion of Works No. 13

PART 4

TEMPORARY SPEED LIMITS

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Temporary limit to be imposed</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Duration</i>
A45 Northbound	50mph	From a point 20 metres north of the roundabout junction with the M1 to a point 300 metres before the start of	From commencement of Works No. 8

		the diverge to the Wootton Interchange	until completion of Works No. 8
A45 Southbound	50mph	From the diverge at the Wootton Interchange to a point 110 metres north of the roundabout junction with the M1	From commencement of Works No. 8 until completion of Works No. 8
A508	40mph	From a point 30 metres north of the junction between the A508 and the unnamed road to Quinton to the circulatory carriageway at M1 Junction 15.	From commencement of any of Works Nos. 1 to 6 until completion of Works No. 7
A508	30mph	From a point 68 metres south of the junction between the A508 and Field View to a point [500] metres south of the junction between the A508 and the C26 Ashton Road	From commencement of Works No. 14 until completion of Works No. 14
A508	30mph	From a point [400] metres north of the junction between the A508 and the C85 Pury Road to a point [250] metres south of that junction	From commencement of Works No. 14 until completion of Works No. 14
M1 Northbound	50mph	From a point 1 kilometre before the start of the diverge to junction 15 to a point 50 metres south of overbridge at junction 15	From commencement of Works No. 8 until completion of Works No. 8
M1 Southbound	50mph	From a point 1 kilometre before the start of the diverge to junction 15 to a point 170 metres north of the end of the merge at junction 15	From commencement of Works No. 8 until completion of Works No. 8

SCHEDULE 9 TRAFFIC REGULATION

Articles 17, 18 and 19

PART 1 AMENDMENTS TO EXISTING ORDERS

(1) <i>Statutory Instrument/ Order Title</i>	(2) <i>Changes</i>	(3) <i>Event</i>
The County of Northampton (Church Lane, Blisworth)	To be revoked in its entirety	Opening to traffic of the Roade Bypass constructed as part of

(Weight Restriction) Order 1971		Works No. 13 as shown on the works plans (Documents 2.2D and 2.2E).

PART 2

CLEARWAYS

(1) <i>Location</i>	(2) <i>Description</i>	(3) <i>Event</i>
A508 Southbound	From the junction with the circulatory carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at M1 junction 15 to the roundabout junction between the A508 and the main site access road, the centreline of which is shown coloured purple between points 1 and 2 on the traffic regulation plan (Document 2.6A).	Completion of Works No. 7
A508 Northbound	From the roundabout junction between the A508 and the rail terminal access road to the junction with the circulatory carriageway at the signalised roundabout between the A45, A508 and M1 slip roads at the M1 junction 15; the centreline of which is shown coloured purple between points 3 and 4 as shown on the traffic regulation plan (Document 2.6A).	Completion of Works No. 7

PART 3

ENVIRONMENTAL WEIGHT LIMIT

(1) <i>Location</i>	(2) <i>Zone</i>	(3) <i>Terminal points</i>	(4) <i>Event</i>
Parish of Courteenhall and Parish of Quinton	A	(i) Unnamed Road to Quinton, at its junction with the A508 Northampton Road as shown at point 7 on the traffic regulation plans (Document 2.6A); and (ii) Courteenhall Road (Parish of Quinton), at its junction with the C23 Hartwell Road as shown at point 8 on the traffic regulation plans (Inset A of Document 2.6B)	Commencement of any of Works Nos. 1 to 6
Parish of Blisworth, Parish of Courteenhall,	B	(i) Blisworth Road (Parish of Courteenhall), at its junction with the	Completion of Works No.

Parish of Easton Neston, Parish of Paulerspury, Parish of Roade, Parish of Shutlanger, and Parish of Stoke Bruerne		A508 Northampton Road as shown at point 9 on the traffic regulation plans (Document 2.6A); (ii) Courteenhall Road (Parish of Blisworth), at its junction with the C188 Northampton Road / High Street as shown at point 10 on the traffic regulation plans (Inset B of Document 2.6B); (iii) C27 Stoke Road, at its junction with the C188 High Street as shown at point 11 on the traffic regulation plans (Inset B of Document 2.6B); (iv) Church Lane, at its junction with the C188 High Street as shown at point 12 on the traffic regulation plans (Inset B of Document 2.6B); (v) Blisworth Road (Parish of Roade), at its junction with the A508 Roade Bypass as shown at point 13 on the traffic regulation plans (Inset C of Document 2.6B); (vi) Showsley Road, at its junction with the A43 Oxford Road as shown at point 14 on the traffic regulation plans (Inset D of Document 2.6B); (vii) C26 Shutlanger Road, at its junction with the A5 Watling Street as shown at point 15 on the traffic regulation plans (Inset E of Document 2.6B); (viii) C26 Rookery Lane, at its junction with the A508 as shown at point 16 on the traffic regulation plans (Inset F of Document 2.6B); and (ix) Grafton Road, at its junction with the A508 and as shown at point 17 on the traffic regulation plans (Inset G of Document 2.6B).	13
Parish of Ashton, Parish of Roade and Parish of Stoke Bruerne	C	(i) Northampton Road, at its junction with the A508 Roade Bypass as shown at point 18 on the traffic regulation plans (Inset H of Document 2.6B); (ii) C48 Hartwell Road, at its junction with the C26 Ashton Road as shown at point 19 on the traffic regulation plans (Inset J of Document 2.6B); (iii) Roade Hill, at its junction with the C26 Stoke Road as shown at point 20 on the traffic regulation plans (Inset K of Document 2.6B); (iv) Stratford Road, at its junction with the A508 Roade Bypass as	Completion of Works No. 13

		shown at point 21 on the traffic regulation plans (Inset L of Document 2.6B); and (v) Blisworth Road (Parish of Roade) at its junction with the A508 Roade Bypass as shown at point 22 on the traffic regulation plans (Inset C of Document 2.6B).	
Parish of Collingtree and Parish of East Hunsbury	D	(i) C23 Rowtree Road, at its junction with the A45 London Road as shown at point 23 on the traffic regulation plans (Inset M of Document 2.6B); (ii) Penvale Road, at its junction with the A5076 Mere Way as shown at point 24 on the traffic regulation plans (Inset N of Document 2.6B); (iii) Clannell Road, at its junction with the C188 Towcester Road as shown at point 25 on the traffic regulation plans (Inset P of Document 2.6B); and (iv) C23 Rowtree Road, at its junction with the C188 Towcester Road as shown at point 26 on the traffic regulation plans (Inset Q of Document 2.6B).	Commencement of any of Works Nos. 1 to 6

PART 4

PROHIBITED MOVEMENTS

(1) <i>Location</i>	(2) <i>Prohibited Movement</i>
At the junction between the A508 Northampton Road and Blisworth Road in the Parish of Courteenhall	Right turn from the A508 Northampton Road onto Blisworth Road (Parish of Courteenhall); shown at point 5 on the traffic regulation plans (Document 2.6A)
	Right turn from Blisworth Road (Parish of Courteenhall) onto the A508 Northampton Road; shown at point 6 on the traffic regulation plans (Document 2.6A)

SCHEDULE 10

Article 35

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Area</i>	(2) <i>Number of land shown on land plan</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Relevant part of the authorised development</i>
District of South Northamptonshire	3/3	Landscaping, drainage and ecological works	Works No. 6

	4/1	Alteration to private access as part of construction of Roade bypass	Works No. 13
	4/2	Alteration to private access as part of construction of Roade bypass	Works No. 13
	4/2a	Construction of Roade bypass (temporary construction compound)	Works No. 13
	4/14	Alteration to private access as part of construction of Roade bypass	Works No. 13
	4/15	Alteration to private access as part of construction of Roade bypass	Works No. 13
	4/16	Construction of Roade bypass	Works No. 13
	4/20a	Construction of Roade bypass	Works No. 14
	5/2	Construction of Roade bypass (temporary construction compound)	Works No. 13
	5/3	Alteration to private access as part of construction of Roade bypass	Works No. 13
	5/10	Alteration to private access as part of new highway works at the junction of the A508 and C85	Works No. 14

SCHEDULE 11

Article 25

LAND IN WHICH NEW RIGHTS MAY BE CREATED

(1) <i>Area</i>	(2) <i>Plot of land shown on Land Plan</i>	(3) <i>Relevant part of Authorised Development</i>
District of South Northamptonshire	1/14 (in respect of bridge only)	Works No. 9
	4/3	Works No. 13
	4/4	Works No. 13
	4/5	Works No. 13
	4/5a (in respect of bridge only)	Works No. 13
	4/7	Works No. 13
	4/8	Works No. 13

Borough of Northampton	1/40	Works No. 9
	1/44	Works No. 9
	1/45	Works No. 9
	2/1	Works No. 10
	2/2	Works No. 10
	2/3	Works No. 10
	2/4	Works No. 10
	2/5	Works No. 10

SCHEDULE 12

Article 25

MODIFICATIONS OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications set out in this Schedule as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973^(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable”.

3.—(1) Without limiting paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, after “if” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act;
 - (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 12 to the Northampton Gateway Rail Freight Interchange Order 201X to acquire an interest in the land; and
 - (c) the acquiring authority enters on and takes possession that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purposes of excising that right.”

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act as applied by section 125 of the 2008 Act and as modified by article 31 (application of Part 1 of the 1965 Act) to the compulsory acquisition of land under article 24 (compulsory acquisition of land) applies to the compulsory acquisition of a right by the creation of a new right under article 25 (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 5; and

(a) 1973 c. 26.

(b) with other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

(3) For section 7 of the 1965 Act (measure of compensation) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) Section 8(1) of the 1965 Act has effect as if references to acquiring land were to acquiring a right in the land.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 (powers of entry) of the 1965 Act(a) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act(d) (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(b) Section 12 was amended by section 56(2) of, and part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(c) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

10. For schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 32 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) of the Northampton Gateway Rail Freight Interchange Order 201X in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the use to be made of the right proposed to be acquired, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 13

Article 44

PROTECTIVE PROVISIONS

PART 1

FOR PROTECTION OF RAILWAY INTERESTS

1. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred by that paragraph.

2. In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his or her powers under section 8 of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006^(a)) the holding company of Network

(a) 2006 c. 46.

Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail Infrastructure Limited and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property

“working days” means days other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works pursuant to this Order.

4.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 5 (Authorisation of use)
- (b) article 6 (Maintenance of the authorised development)
- (c) article 12 (Public rights of way – creation, substitution and stopping up)
- (d) article 13 (Accesses)
- (e) article 22 (Authority to survey and investigate the land)
- (f) article 24 (Compulsory Acquisition of land)
- (g) article 25 (Compulsory Acquisition of rights)
- (h) article 26 (Acquisition of part of certain properties)
- (i) article 27 (Private rights)
- (j) article 28 (Power to override easements and other rights)
- (k) article 33 (Statutory undertakers and operators of the electronic communications code network)
- (l) article 35 (Temporary use of land for carrying out the authorised development)
- (m) article 36 (Temporary use of land for maintaining the authorised development)
- (n) article 39 (Operation and use of railways)
- (o) article 43 (Felling or lopping of trees and removal of hedgerows)

or the powers conferred by section 11(3) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act or, article 33 (Statutory Undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers conferred by this Order acquire or use or acquire new rights over any railway property except with the consent Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled in accordance with paragraph 22.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his or her disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his or her approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his or her reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and

- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as he or she may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph

- 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
 - (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
 - (d) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
 - (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised works where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised works) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised works giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised works take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) have effect subject to the sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations on the authorised railway comprised in the authorised works and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised works causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI

either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof or

- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

16. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

20. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 7 (Benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

21. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 49 (Certification of plans and documents) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

Dispute Resolution and Arbitration

22.—(1) Article 49 (arbitration) does not apply to this Part of this Schedule.

(2) All parties involved in settling any difference shall use reasonable endeavours to do so within 42 working days from the date of a dispute first being notified in writing by one party to the other.

(3) In the absence of the difference being settled within the period referred to in sub-paragraph (2) the difference shall be referred to and settled by a single arbitrator to be agreed between the parties except that, failing agreement between the parties of the arbitrator to be appointed, an arbitrator shall be appointed following the expiry of 14 working days from the expiry of the 42 day working days referred to in sub-paragraph (2) on the application of either party by —

- (a) in the case of matters relating to paragraph 11 of this Part of this Schedule, the president of the Institution of Engineering and Technology; and
- (b) in the case of matters of all other matters relating to this Part of this Schedule, the president of the Institute of Civil Engineers.

(4) All parties involved in settling any difference by arbitration will use reasonable endeavours to deal with such matters expeditiously and in accordance with the timetable set out in sub-paragraph (5) unless that timetable is varied in accordance with sub-paragraph (6)(b) to allow for the consents referred to in sub paragraph (6)(a) to be obtained.

(5) The timetable referred to in sub-paragraph (4) is:

- (a) the parties must make submissions to the arbitrator in writing, and copied to the other party, within 42 working days of the arbitrator's appointment;
- (b) any comment on the submissions made by either party must be submitted to the arbitrator within 42 working days of the receipt of the submission under (a);
- (c) a maximum of 42 working days extension to either or both of the periods referred to in (a) and (b) is to be allowed should a party request such an extension prior to the relevant period expiring unless the arbitrator is of the view that such an extension would be manifestly unreasonable or unnecessary; and
- (d) a decision must be issued within 42 working days of the receipt of the submissions under paragraph (b) or any extension to such period allowed under (c) subject to sub-paragraph (6).

(6) The parties recognise that:

- (a) Network Rail's compliance with the arbitration timetable referred to at sub-paragraph (5) will be subject to the obtaining by Network Rail of necessary clearance consents and other engineering, regulatory and stakeholder (internal and external) consents required under statute, by regulations or by NR governance procedures; and
- (b) the timetable set out in sub-paragraph (5) shall be varied by the arbitrator to accommodate the consents and procedures referred to in sub paragraph (6)(a).

(7) Network Rail must use reasonable endeavours to pursue any consents referred to in (6) expeditiously.

(8) The fees of the arbitrator are payable by the parties in such proportions as the arbitrator may determine, or in the absence of such determination, equally.

PART 2

FOR THE PROTECTION OF HIGHWAYS ENGLAND

Application

1. The provisions of this Part of this Schedule shall have effect unless otherwise agreed in writing between the undertaker and Highways England and shall apply to the HE Works.

Interpretation

2.—(1) The terms used in this Part of this Schedule are as defined in article 2 of this Order save where inconsistent with sub-paragraph (2) below which shall prevail; and

(2) In this Part of this Schedule—

“As Built Information” means one digital copy of the following information where applicable to the Phase in question—

- (a) As constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the Undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) List of suppliers and materials used;
- (c) Product data sheets, technical specifications for all materials used;
- (d) As constructed information for any Utilities discovered or moved during the works;
- (e) Method Statements for works carried out;
- (f) In relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works;
- (g) Organisation and methods manuals for all products used in the construction of the authorised development;
- (h) As constructed programme;
- (i) Test results and records as required by the Detailed Design Information and during the construction phase of the project;
- (j) RSA 3 and exceptions agreed;
- (k) Health and Safety File; and
- (l) Other such information as is necessary to enable Highways England to update all relevant databases and to ensure compliance with the Highways England Asset Data Management Manual as shall be in operation at the relevant time including, for the avoidance of doubt, CCTV surveys.

“the Bond Sum” means the sum equal to 120% of the cost of the carrying out of the Phase of the HE Works concerned (to include all costs including the Commuted Sum) or such other sum agreed between the undertaker and Highways England;

“the Cash Surety” means the sum of £150,000 or such other sum agreed between the undertaker and Highways England;

“County Highway Works” means those parts of the authorised development to be carried out in the areas identified as Works Nos. 7, 9, 12, 13, 14, 15, 16 and 17 on the works plans, the general arrangement of which is shown on the highway plans and any ancillary works thereto;

“Committed Sum” means such sum as shall be calculated for each phase as provided for in paragraph 9 of this Part of this Schedule and to be used to fund the future cost of maintaining the HE Works;

“Contractor” means any contractor or sub-contractor appointed by the undertaker to carry out the HE Works or any Phase of the HE Works and approved by Highways England pursuant to paragraph 3(3) below;

“Detailed Design Information” means drawings, specifications and calculations as appropriate for the following which shall all be in accordance with the general arrangements of the HE Works shown on the highway plans unless otherwise agreed between Highways England and the undertaker—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting Road Restraint Risk Appraisal Process assessment (RRRAP);
- (d) drainage and ducting as required by Series 500 of the Specification for Highways Works, HD 43/04, IAN 147/12 and SD 15 Parts 1 – 6 inclusive;
- (e) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) electrical work for road lighting, traffic signs and signals;
- (k) motorway communications as required by the Designs Manual for Roads and Bridges;
- (l) highway structures and any required structural Approval in Principle (AIP);
- (m) landscaping;
- (n) agreed departures from DMRB standards;
- (o) a report of walking, cycling and horse riding carried out in accordance with the Design Manual for Roads and Bridges Standard HD42/17 or any successor document;
- (p) Stage 2 Road Safety Audit and exceptions agreed and in the event that any works are not commenced within five years of the date of the Stage 1 Road Safety Audit a further Stage 1 Road Safety Audit and exceptions agreed;
- (q) Utilities diversions;
- (r) topographical survey;
- (s) maintenance and repair strategy in accordance with Designing for Maintenance Interim Advice Note 69/15 or any successor document; and
- (t) health and safety information including any asbestos survey required by GD05/16 or any successor document,

where relevant to the Phase concerned.

“Dilapidation Survey” means a survey of the condition of the roads, bridges and retaining walls which will be the subject of the physical works comprised in the Phase concerned;

“Estimated Costs” means the estimated costs in respect of each Phase agreed pursuant to paragraphs 5(1)(b) to (d) and (5) of this Part of this Schedule;

“the Excess” means the amount by which Highways England estimates that the costs referred to in paragraph 5(1)(b) to (d) will exceed the Estimated Costs pursuant to paragraph 5(5)(b);

“HE Works” means those parts of the authorised development to be carried out in the areas identified as Works Nos. 8 and 11 on the works plans, the general arrangement of which is shown on the highway plans and any ancillary works thereto;

“Nominated Persons” means the undertakers representatives or the Contractors representatives on site during the carrying out of the HE Works as notified to Highways England from time to time;

“Phase” means that part of the HE Works which is to be carried out in separate phases in the areas identified as Works Nos 8 and 11 on the works plans or such other phasing arrangements as shall be agreed with Highways England;

“Programme of Works” means a document setting out the sequence and timetabling of the Phase of the HE Works in question;

“Road Safety Audit” means an audit carried out in accordance with the Road Safety Audit Standard – a member of Highways England East Midlands Asset Delivery Road Safety Team will be part of the approved audit team;

“Road Safety Audit Standard” means the Design Manual for Roads and Bridges Standard HD 19/15 or any successor document;

“Utilities” means any pipes, wires, cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“Winter Maintenance” means maintenance of the road surface to deal with snow and ice.

Prior Approvals and Security

3.—(1) No work must commence on any Phase of the HE Works until the Detailed Design Information and a Programme of Works in respect of that Phase have been submitted to and approved by Highways England.

(2) Highways England must nominate a person who will be a single point of contact on behalf of Highways England for consideration of the Detailed Design Information and who shall co-ordinate the Highways England response to the details submitted.

(3) No works must commence on any Phase of the HE Works other than by a Contractor employed by the undertaker for that Phase but first approved by Highways England.

(4) No work must commence on any Phase of the HE Works until Highways England has agreed the Bond Sum for that Phase and the undertaker has provided security for the carrying out of those works as provided for in paragraph 9 below or some other form of security acceptable to Highways England.

(5) No work must commence on any Phase of the HE Works until Stage 1 and Stage 2 Road Safety Audits have been carried out in respect of that Phase and all recommendations raised incorporated into an amended design approved by Highways England or any relevant exceptions approved by Highways England.

(6) No work must commence on any Phase of the HE Works until the undertaker demonstrates to the satisfaction of Highways England that the Walking, Cycling and Horse Riding Assessment and Review process for that Phase has been adhered to in accordance with the Design Manual for Roads and Bridges Standard HD 42/17 or any successor document.

(7) No work must commence on any Phase of the HE Works until a scheme of traffic management has been submitted by the undertaker and approved by Highways England for that Phase such scheme to be capable of amendment by agreement between the undertaker and Highways England from time to time.

(8) No work must commence on any Phase of the HE Works until stakeholder liaison has taken place for that Phase in accordance with a scheme for such liaison agreed between the undertaker and Highways England.

(9) No work must commence on any Phase of the HE Works until Highways England has approved the audit brief and CVs for all Road Safety Audits and exceptions to items raised if appropriate for that Phase in accordance with the Road Safety Audit Standard.

(10) No work must commence on any Phase of the HE Works until the undertaker has agreed the Commuted Sum for that Phase with Highways England to be calculated in accordance with paragraph 9 of this Part of this Schedule.

(11) No work must commence on any Phase of the HE Works until a Dilapidation Survey for that Phase has been carried out by the undertaker and has been submitted to and approved in writing by Highways England.

(12) No work must commence on any Phase of the HE Works until the scope of all routine maintenance to be carried out by the undertaker during the construction of the Phase concerned has been agreed in writing by Highways England such maintenance shall only include Winter Maintenance of the Phase concerned where;

- (a) access to carry out such maintenance by Highways England is not available by virtue of the works being carried out on that Phase; and
- (b) any Winter Maintenance is needed immediately prior to the opening of any carriageway to traffic where that carriageway had been closed for the purposes of the carrying out of the Phase concerned.

Carrying out of works

4.—(1) The undertaker must prior to commencement of each Phase of the HE Works give Highways England 28 days' notice in writing of the date on which that Phase will start unless otherwise agreed by Highways England.

(2) The undertaker must comply with Highways England's usual road space booking procedures prior to and during the carrying out of each Phase of the HE Works and no HE Works for which a road space booking is required shall commence without a road space booking having first been secured. It will be necessary for an assessment of the highway network and impact of any road closures on diversion routes to be carried out including any impact related to the County Highway Works. It is acknowledged by Highways England that in the event that the aforementioned assessment indicates no safety or operational concerns then the HE Works can proceed at the same time as Highways England's M1 J13-16 Smart Motorway scheme with road space booking being shared where practicable. In the event that the aforementioned assessment indicates that both schemes cannot be accommodated at the same time then Highways England, in its absolute discretion shall decide when a road space booking can be issued to the undertaker.

(3) Each Phase of the HE Works must be carried out to the satisfaction of Highways England in accordance with—

- (a) the relevant Detailed Design Information and a Programme of Works approved pursuant to paragraph 3(1) above or as subsequently varied by agreement between the undertaker and Highways England;
- (b) the Design Manual for Roads and Bridges, the Specification for Highway Works (contained within the Manual of Contract Documents for Highway Works), all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 and any amendment to or replacement thereof for the time being in force save to the extent that they are inconsistent with the general arrangement of the HE Works as shown on the highway plans or a departure from such standards has been approved by Highways England;
- (c) such approvals or requirements of Highways England that are required by the provisions of paragraph 3 to be in place prior to the relevant Phase of the HE Works being undertaken; and
- (d) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, shall ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of Highways England.

(4) The undertaker must permit and require the Contractor to permit at all reasonable times persons authorised by Highways England (whose identity shall have been previously notified to the undertaker by Highways England) to gain access to the HE Works and the County Highway

Works for the purposes of inspection and supervision and the undertaker must provide to Highways England contact details of the Nominated Persons with whom Highways England should liaise during the carrying out of the HE Works.

(5) At any time during the carrying out of the HE Works the Nominated Persons must act upon any reasonable request made by Highways England in relation to the carrying out of the HE Works as soon as practicable following such request being made to the Nominated Persons save to the extent that the contents of such request are inconsistent with or fall outside the Contractor's obligations under its contract with the undertaker or the undertaker's obligations in this Order.

(6) If at any time the undertaker does not comply with any of the terms of this Part of this Schedule in respect of any Phase of the HE Works having been given notice of an alleged breach and an adequate opportunity to remedy it by Highways England then Highways England shall on giving to the undertaker 14 days' notice in writing to that effect be entitled to either (i) carry out and complete that Phase of the HE Works and any maintenance works which the undertaker would have been responsible for on the undertaker's behalf; or (ii) carry out such necessary works of reinstatement of the highway and other land and premises of Highways England and in either case the undertaker must within 28 days of receipt of the itemised costs pay to Highways England the costs so incurred by Highways England.

(7) If at any time the undertaker in carrying out the authorised development causes any damage or disruption to the strategic road network not hereby authorised then Highways England shall give notice of such damage or disruption and allow the undertaker 14 days to remedy the problem. Should the undertaker fail to adequately remedy the problem to the satisfaction of Highways England then Highways England shall on giving to the undertaker 7 days' notice in writing to that effect be entitled to carry out such necessary works as Highways England acting reasonably deem appropriate to remedy the damage or disruption and the undertaker must within 28 days of receipt of the itemised costs pay to Highways England the costs so incurred by Highways England.

(8) Nothing in this Part of this Schedule shall prevent Highways England from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public the cost to Highways England of such work or action being chargeable to and recoverable from the undertaker if the need for such action arises from the carrying out of the authorised development. For the avoidance of doubt this provision applies to all areas of the authorised development including any area of traffic management deployed under the traffic management plan approved pursuant to paragraph 3 (7) to facilitate delivery of the authorised development.

(9) For the avoidance of doubt it is confirmed that the undertaker in carrying out each Phase of the HE Works must at its own expense divert or protect all Utilities as may be necessary to enable the HE Works to be properly carried out and all agreed alterations to existing services must be carried out to the reasonable satisfaction of Highways England.

(10) During the construction of each Phase of the HE Works the undertaker shall be responsible for all routine maintenance at its cost within that Phase (including Winter Maintenance where required to be undertaken by the undertaker in accordance with paragraph 3(12)). All routine maintenance must be carried out in accordance with the scope of routine maintenance operations agreed by Highways England pursuant to paragraph 3(12).

Payments

5.—(1) The undertaker must fund the whole of the cost of the HE Works and all costs incidental to the HE Works and must also pay to Highways England in respect of each Phase of the HE Works a sum equal to the whole of any costs and expenses which Highways England incur including costs and expenses for using external staff and resources as well as costs and expenses of using in-house staff and resources in relation to the HE Works and arising out of them and their implementation including without prejudice to the generality thereof—

- (a) the checking and approval of all design work carried out by or on behalf of the undertaker for that Phase;
- (b) costs in relation to agreeing the Programme of Works for that Phase;

- (c) the carrying out of supervision of that Phase; and
- (d) all administrative costs in relation to (a) and (b) above,

together comprising “the Estimated Costs”.

(2) The sums referred to in sub-paragraph (1) above do not include any sums payable from the undertaker to the Contractor but do include any value added tax which is payable by Highways England in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs.

(3) The undertaker must pay to Highways England upon demand and prior to such costs being incurred the total costs that Highways England believe will be properly and necessarily incurred by Highways England in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the HE Works provided that this paragraph shall not apply to the making of any orders which duplicate orders contained in this Order.

(4) The undertaker must make the payments of the Estimated Costs as follows—

- (a) the undertaker must pay a sum equal to the anticipated cost of the tasks referred to in sub-paragraphs 5(1)(a), (b) and (d) to Highways England prior to Highways England undertaking those tasks;
- (b) the undertaker must pay a sum equal to the anticipated cost of the tasks referred to in sub-paragraph 5(1)(c) prior to commencing that Phase;
- (c) if at any time or times after the payment in respect of a Phase referred to in sub-paragraphs (4)(a) and (b) above has become payable and Highways England reasonably estimates that the costs in respect of that Phase referred to in sub-paragraph (1) above will exceed the Estimated Costs for that Phase it may give notice to the undertaker of the amount by which it then reasonably estimates those costs will exceed the Estimated Costs (“the Excess”) and the undertaker must pay to Highways England within 28 days of the date of that notice a sum equal to the Excess.

(5) Within 91 days of the issue of the handover certificate for each Phase of the HE Works pursuant to paragraph 7 Highways England must give the undertaker a final account of the costs referred to in sub-paragraph (1) above and within 28 days from the expiry of the 91 day period—

- (a) if the account shows a further sum as due to Highways England the undertaker must pay to Highways England the sum shown due to it in that final account; and
- (b) if the account shows that the payment or payments previously made have exceeded those costs Highways England must refund the difference to the undertaker.

(6) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1% above the rate payable in respect of compensation under Section 32 of the Land Compensation Act 1961 for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional Certificate

6. As soon as—

- (a) each Phase of the HE Works has been completed; and
- (b) a Stage 3 Road Safety Audit for that Phase has been carried out and any resulting recommendations complied with and any exceptions agreed,

Highways England must forthwith issue a provisional certificate of completion in respect of that Phase such certificate not to be unreasonably withheld or delayed.

Handover Certificate and Defects Period

7.—(1) As soon as, in respect of a Phase—

- (a) The undertaker has carried out a Dilapidation Survey of the area previously surveyed pursuant to sub-paragraph 3(11) and completed any remedial works necessary to bring that area into as good a condition as when it was originally surveyed, such works to be first agreed with Highways England;
- (b) the undertaker has provided a plan clearly identifying the extent of any land which is to become highway maintainable at public expense together with any ancillary equipment that will become the responsibility of the highway authority; and
- (c) the As Built Information has been provided to Highways England,

Highways England must forthwith issue a handover certificate in respect of that Phase such certificate not to be unreasonably withheld or delayed.

(2) The undertaker must at its own expense remedy any defects in any Phase of the HE Works as are reasonably required to be remedied by Highways England during a period of 12 months from the date of the handover certificate in respect of that Phase. All identified defects shall be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of Highways England);
- (b) in respect of matters which Highways England consider to be serious defects or faults, within 14 days of receiving notification of the same or if a road space booking is required at the time when the road space is available whichever is the later; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same or if a road space booking is required at the time when the road space is available whichever is the later.

(3) Following the issue of the handover certificate in respect of a Phase Highways England shall be responsible for the HE Works within that Phase which shall thereafter be maintained by and at the expense of Highways England save for any soft landscaping works which shall be established and thereafter maintained for a period of 3 years by and at the expense of the undertaker.

(4) The undertaker must submit Stage 4 Road Safety Audits for each Phase as required by and in line with the timescales stipulated in the Road Safety Audit Standard. The undertaker must comply with the findings of the Stage 4 Road Safety Audits and be responsible for all costs of and incidental to such.

Final Certificate

8. Highways England must issue the final certificate in respect of each Phase at the expiration of the 12 month period in respect of that Phase referred to in paragraph 7(2) or if later on the date on which any defects or damage arising from defects during that period have been made good to the reasonable satisfaction of Highways England such certificate not to be unreasonably withheld or delayed.

Security

9.—(1) Subject to paragraph 3(4) above the undertaker must provide security for the carrying out of the HE Works as follows—

- (a) prior to the commencement of each Phase the HE Works within that Phase must be secured by a bond from a bondsman first approved by Highways England substantially in the form of the draft bond attached at Annex 1 or such other form that may be agreed between the undertaker and Highways England to indemnify Highways England against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of that Phase under the provisions of this Part of this Schedule provided that the maximum liability of the bond shall not exceed the Bond Sum relating to that Phase; and
- (b) prior to the commencement of the HE Works the undertaker must provide the Cash Surety which may be utilised by Highways England in the event of the undertaker failing to meet its obligations to make payments under paragraph 5 or to carry out works the

need for which arises from a breach of one or more of the obligations of the undertaker (which shall for the avoidance of doubt be a single cash surety for the entirety of the HE Works).

(2) Each Bond Sum and the cash surety (the latter in respect of the final phase only) shall be progressively reduced as follows—

- (a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the Contractors) from the undertaker of the payments made from time to time to the Contractor Highways England must in writing authorise the reduction of the Bond Sum by such proportion of the Bond Sum as amounts to 80% of those payments provided that an evaluation of the HE Works completed and remaining has been carried out by the undertaker and audited and agreed by Highways England to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the Contractors. Highways England shall only be required to provide the said authorisation should it be satisfied that the monies remaining secured by the Bond Sum shall be sufficient to cover all remaining costs and liabilities anticipated to be incurred in completing the HE Works plus an additional 20%;
- (b) within 20 working days of completion of each Phase of the HE Works (as evidenced by the issuing of the provisional certificate in respect of that Phase pursuant to paragraph 6(1)) Highways England must in writing release the bond provider from its obligations in respect of 80% of the Bond Sum relating to that Phase (“the Revised Bond Sum”) save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date in which case Highways England will retain a sufficient sum to meet all necessary costs; and
- (c) within 20 working days of the issue of the final certificate for each Phase of the HE Works referred to in paragraph 8 Highways England must in writing release the bond provider from its obligations in respect of the Revised Bond Sum relating to that Phase and (in respect of the final phase) release the remainder of the cash surety to the undertaker save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date in which case Highways England will retain a sufficient sum to meet all necessary costs.

Commuted sums

10. The undertaker must pay to Highways England the Commuted Sum calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 within 28 days of the date that each Phase of the HE Works becomes maintainable by Highways England pursuant to paragraph 7(3).

Insurance

11. The undertaker must prior to commencement of the HE Works effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (Ten million pounds) against any legal liability for damage, loss or injury to any property or any person as a direct result of the execution of the HE Works or any part thereof by the undertaker.

Indemnification

12.—(1) The undertaker must in relation to the carrying out of the HE Works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the highway authority and must indemnify Highways England from and against all costs expenses damages losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the HE Works provided that—

- (a) the foregoing indemnity shall not extend to any costs, expenses, liabilities and damages caused by or arising out of the neglect or default of Highways England or its officers servants, agents or contractors or any person or body for whom it is responsible;

- (b) Highways England must notify the undertaker forthwith upon receipt of any claim; and
- (c) Highways England must following the acceptance of any claim notify the quantum thereof to the undertaker in writing and the undertaker shall within 14 days of the receipt of such notification pay to Highways England the amount specified as the quantum of such claim.

(2) The undertaker must notify Highways England of the intended date of opening of each Phase to public traffic not less than 14 days in advance of the intended date and the undertaker must notify Highways England of the actual date that each Phase is open to public traffic on each occasion within 14 days of that occurrence.

Warranties

13. The undertaker must procure warranties from the contractor and designer of each Phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that Phase including the selection of materials, goods, equipment and plant such warranties to be provided to Highways England before that Phase commences.

Land Transfer

14.—(1) Following the issuing of the final certificates for all the HE Works Highways England may serve notice on the undertaker that it wishes to take a freehold transfer of land within the then extent of highway land which is not in the ownership of HE but has been acquired by the undertaker for the purposes of carrying out the HE Works.

(2) If the undertaker receives a notice under sub-paragraph 14(1) then the undertaker must co-operate in a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to Highways England which, for the avoidance of doubt, shall include the undertaker being responsible for the reasonable legal costs incurred by Highways England in connection with such transfer.

Approvals

15.—(1) Any approvals, certificates, consents or agreements required or sought from or with Highways England pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing save that any such approval certificate, consent or agreement shall be deemed to have been given if it is neither given nor refused within 42 days of the specified day.

(2) In this paragraph “specified day” means—

- (a) the day on which particulars of the matter are received by Highways England under the provisions of this Part of this Schedule; or
- (b) the day on which the undertaker provides Highways England with any further particulars of the matter that have been reasonably requested by Highways England within 28 days of the date in sub-paragraph (2)(a)

whichever is the later.

Expert Determination

16.—(1) Article 49 (arbitration) does not apply to this Part of this Schedule except in respect of sub-paragraph (5) below.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and
- (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49.

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Annex 1

BY THIS BOND [] [(Company Regn No)] whose registered office is situate at [] (“**the undertaker**”) and [] [(Company Regn No)] whose registered office is situate at [] (“**the Surety**”) are jointly and severally bound to [] of [] (“**the []**”) this [] day of [] 200[] in the sum of [] pounds (£[Surety Sum to the payment of which sum the undertaker and the Surety hereby jointly and severally bind themselves their successors and assigns

WHEREAS under a Development Consent Order known as The Northampton Gateway Rail Freight Interchange Order 201[X] (“**the DCO**”) the undertaker is empowered to commence execute perform and complete the highway works mentioned therein in such manner and within such time and subject to such conditions and stipulations as are particularly specified and set forth in the DCO and also to pay to Highways England such sums as are therein provided **NOW THE CONDITIONS** of this Bond are such that if the undertaker shall duly observe and perform all the terms provisions covenants conditions and stipulations of Part 2 of Schedule 13 of the DCO on the undertaker's part to be observed and performed according to the true purport intent and meaning thereof or if on default by the undertaker the Surety shall satisfy and discharge the damages sustained by Highways England thereby up to the amount of this Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect in accordance with the provisions of the DCO (and including any reductions as provided for in the DCO) but no allowance of time by Highways England under the DCO nor any forbearance or forgiveness in or in respect of any matter or thing concerning the DCO on the part of Highways England shall in any way release the Surety from any liability under this Bond

It is hereby agreed that this Bond will be reduced and released in accordance with paragraph 9 of Part 2 of Schedule 13 of the DCO.

[Attestation]

PART 3

FOR THE PROTECTION OF NORTHAMPTONSHIRE COUNTY COUNCIL AS HIGHWAY AUTHORITY

Application

1. The provisions of this Part of this Schedule shall have effect unless otherwise agreed in writing between the undertaker and Northamptonshire County Council and shall apply to the County Highway Works.

Interpretation

2.—(1) The terms used in this Part of this Schedule are as defined in article 2 of this Order save where inconsistent with sub-paragraph (2) below which shall prevail; and

(2) In this Part of this Schedule—

“As Built Information” means one digital copy of the following information where applicable to the Phase in question—

- (a) As constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the Undertaker;
- (b) List of suppliers and materials used, test results and CCTV surveys;
- (c) Product data sheets, technical specifications for all materials used;
- (d) As constructed information for any Utilities discovered or moved during the works;
- (e) Method statements for works carried out;
- (f) In relation to road lighting, signs and traffic signals any information required by Series 1400 of the Specification for Highway Works;
- (g) Plan of temporary signage indicating new road layouts;
- (h) Populated post-construction inventory in the form of the Northamptonshire County Council post construction inventory dated [];
- (i) Organisation and methods manuals for all products used in the construction of the authorised development;
- (j) As constructed programme;
- (k) Test results and records required by the Detailed Design Information and during the construction phase of the project;
- (l) RSA3 and exceptions agreed; and
- (m) Health and Safety File;

“the Bond Sum” means the sum equal to 110% of all the costs of the carrying out of the Phase of the County Highway Works concerned and 100% of the Commuted Sum relating to that Phase or such other sum agreed between the undertaker and the local highway authority;

“Commuted Sum” means such sum as shall be calculated for each Phase as provided for in paragraph 9(2) of this Part of this Schedule and to be used to fund the future cost of maintenance of the County Highway Works.

“Contractor” means any contractor or sub-contractor appointed by the undertaker to carry out the County Highway Works or any Phase of the County Highway Works and approved by the local highway authority pursuant to paragraph 3(2) below;

“County Highway Works” means those parts of the authorised development to be carried out in the areas identified as Works Nos. 7, 9, 12, 13, 14, 15, 16 and 17 on the works plans the general arrangement of which is shown on the highway plans and any ancillary works thereto;

“Detailed Design Information” means drawings, specifications and other information which shall be in accordance with the general arrangements of the County Highway Works shown on

the highway plans unless otherwise agreed between the local highway authority and the undertaker—

- (a) site clearance details;
- (b) boundary environmental and mitigation fencing;
- (c) road restraints systems supporting Road Restraint Risk Assessment;
- (d) drainage and ducting;
- (e) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) electrical work for road lighting, traffic signs and signals;
- (k) highway structures;
- (l) Stage 2 Road Safety Audit and exceptions agreed and in the event that any works are not commenced within five years of the date of this Order comes into force a further Stage 1 Road Safety Audit and exceptions agreed;
- (m) landscaping;
- (n) Utilities diversions;
- (o) topographical survey;
- (p) identification of any land to be dedicated as highway; and
- (q) pre- construction health and safety information

where relevant to the Phase concerned.

“Estimated Costs” means the estimated costs in respect of each Phase agreed pursuant to paragraphs 5(1) and (5) of this Part of this Schedule;

“the Excess” means the amount by which the local highway authority estimates that the costs referred to in paragraph 5(1) will exceed the Estimated Costs pursuant to paragraph 5(5)(b);

“Nominated Persons” means the undertaker’s representatives or the Contractor’s representatives on site during the carrying out of the County Highway Works as notified to the local highway authority from time to time;

“Phase” means that part of the County Highway Works which is to be carried out in separate phases in the areas identified as separate works numbers on the works plans or such other phasing arrangements as shall be agreed with the local highway authority;

“Programme of Works” means a document setting out the sequence and timetabling of the Phase in question;

“Road Safety Audit” means an audit carried out in accordance with the Road Safety Audit Standard

“Road Safety Audit Standard” means the Design Manual for Roads and Bridges Standard GG 119 or any successor document;

“Utilities” means any pipes, wires, cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“Winter Maintenance” means maintenance of the road surface to deal with snow and ice during the winter months.

Prior Approvals and Security

3.—(1) No work must commence on any Phase of the County Highway Works until the Detailed Design Information and a Programme of Works in respect of that Phase has been submitted to and approved by the local highway authority.

(2) No works must commence on any Phase of the County Highway Works other than by a Contractor employed by the undertaker for that Phase but first approved by the local highway authority.

(3) No work must commence on any Phase of the County Highway Works until the local highway authority has agreed the Bond Sum for that Phase and the undertaker has provided security for the carrying out of those works as provided for in paragraph 8 below or some other form of security acceptable to the local highway authority.

(4) No work must commence on any Phase of the County Highway Works until a Stage 2 Road Safety Audit has been carried out in respect of that Phase and all issues raised incorporated into an amended design approved by the local highway authority or any relevant exceptions approved by the local highway authority.

(5) No work must commence on any Phase of the County Highway Works until a scheme of traffic management provisions has been agreed with the local highway authority.

(6) No work must commence on any Phase of the County Highway Works until the local highway authority has approved the audit brief and CVs for all Road Safety Audits and exceptions to items raised if appropriate for that Phase in accordance with the Road Safety Audit Standard.

(7) No works must commence on any Phase of the County Highway Works until the undertaker has agreed the Commuted Sum for that Phase with the local highway authority to be calculated in accordance with paragraph 9(2) of this Part of this Schedule.

(8) No works must commence on any Phase of the County Highway Works until the undertaker had provided confirmation of ownership to the local highway authority for any land which is to be dedicated as highway following completion of the County Highway Works.

Carrying out of works

4.—(1) The undertaker must prior to commencement of each Phase of the County Highway Works give the local highway authority 28 days' notice in writing of the date on which that Phase will start unless otherwise agreed with the local highway authority.

(2) The undertaker must comply with the local highway authority's usual road space booking procedures prior to and during the carrying out of each Phase of the County Highway Works and no County Highways Works for which a road space booking is required must commence without a road space booking having first been secured.

(3) Each Phase of the County Highway Works must be carried out to the satisfaction of the local highway authority in accordance with—

- (a) the relevant Detailed Design Information and a Programme of Works approved pursuant to paragraph 3(1) above or as subsequently varied by agreement between the undertaker and the local highway authority;
- (b) the Design Manual for Roads and Bridges, the Specification for Highway Works (contained within the Manual of Contract Documents for Highways Works), all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 and any amendment to or replacement thereof for the time being in force save to the extent that they are inconsistent with the highway plans or a departure from such standards has been approved by the local highway authority;
- (c) such approvals or requirements of the local authority that are required by the provisions of paragraph 3 to be in place prior to the relevant Phase of the County Highway Works being undertaken; and
- (d) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker as client

shall ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of the local highway authority.

(4) The undertaker must permit and require the Contractor to permit at all reasonable times persons authorised by the local highway authority (whose identity must have been previously notified to the undertaker by the local highway authority) to gain access to the land upon which the County Highway Works are being carried out for the purposes of inspection and supervision and the undertaker must provide to the local highway authority contact details of the Nominated Persons with whom the local highway authority should liaise during the carrying out of the County Highway Works.

(5) At any time during the carrying out of the County Highway Works the Nominated Persons must act upon any reasonable request made by the local highway authority in relation to the carrying out of the County Highway Works as soon as practicable following such request being made to the Nominated Persons or the undertaker's obligations in this Order.

(6) If at any time the undertaker does not comply with any of the terms of this Part of this Schedule in respect of any Phase of the County Highway Works having been given notice of an alleged breach and an adequate opportunity to remedy it by the local highway authority then the local highway authority shall on giving to the undertaker 14 days' notice in writing to that effect be entitled to either (i) carry out and complete that Phase of the County Highway Works and any maintenance works which the undertaker would have been responsible for on the undertaker's behalf; or (ii) carry out such necessary works of reinstatement of the highways and other land and premises of the local highway authority and in either case the undertaker must within 28 days of receipt of the itemised costs pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(7) If at any time the undertaker in carrying out any Phase of the County Highway Works causes any damage or disruption to the local road network not hereby authorised then the local highway authority shall give notice of such damage or disruption and allow the undertaker 14 days to remedy the problem. Should the undertaker fail to adequately remedy the problem to the satisfaction of the local highway authority then the local highway authority shall on giving the undertaker 7 days' notice in writing to that effect be entitled to carry out such necessary works deemed appropriate to remedy the damage or disruption and the undertaker shall within 28 days of receipt of the itemised costs pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(8) Nothing in this Part of this Schedule shall prevent the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public the cost to the local highway authority of such work or action being chargeable to and recoverable from the undertaker if the need for such action arises from the carrying out of the County Highway Works.

(9) For the avoidance of doubt it is confirmed that the undertaker in carrying out each Phase of the County Highway Works must at its own expense divert or protect all Utilities as may be necessary to enable the County Highway Works to be properly carried out and all agreed alterations to existing services shall be carried out to the reasonable satisfaction of the local highway authority.

(10) In the event that the local highway authority incurs additional costs in the Winter Maintenance of the highway as a result of traffic management measures regulating the Phase concerned (over and above the costs that would have been incurred in the absence of the County Highway Works being carried out) then the undertaker must reimburse the local highway authority those additional costs such costs to include any administration costs incurred.

(11) The undertaker must notify the local highway authority of the intended date of opening of each Phase to public traffic not less than 14 days in advance of the intended date and the undertaker must notify the local highway authority of the actual date that each Phase is open to public traffic on each occasion within 14 days of that occurrence.

Payments

5.—(1) The undertaker must fund the whole of the cost of the County Highway Works and all costs incidental to the County Highway Works and must also pay to the local highway authority in respect of each Phase of the County Highway Works a sum equal to the whole of any costs and expenses which the local highway authority incur including costs and expenses for using external staff and resources as well as costs and expenses of using in-house staff and resources in relation to the County Highway Works and arising out of them and their implementation including without prejudice to the generality thereof—

- (a) the checking and approval of all design work carried out by or on behalf of the undertaker for that Phase;
- (b) costs in relation to agreeing the Programme of Works for that Phase;
- (c) the carrying out of the inspection of that Phase; and
- (d) all administrative costs in relation to (a) and (b) and (c) above,

(the costs in (a), (b), (c) and (d) being together “the Estimated Costs”).

(2) The undertaker must pay to the local highway authority upon demand and prior to such costs being incurred the total costs that the local highway authority believe will be properly and necessarily incurred by the local highway authority in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the County Highway Works provided that this paragraph shall not apply to the making of any orders which duplicate orders contained in this Order.

(3) The undertaker and the local highway authority must agree a schedule of the Estimated Costs to be incurred pursuant to sub-paragraph (1) above in respect of each Phase prior to the commencement of that Phase.

(4) The undertaker must make the payments referred to in sub-paragraph (1) as follows—

- (a) the undertaker must pay a sum equal to the agreed Estimated Costs to the local highway authority prior to the local highway authority undertaking those tasks in respect of any Phase of the County Highway Works;
- (b) if at any time or times after the payment in respect of a Phase referred to in paragraph 5(4)(a) above has become payable the local highway authority reasonably estimates that the costs in respect of that Phase referred to in paragraph (1) above will exceed the Estimated Costs for that Phase it may give notice to the undertaker of the amount by which it then reasonably estimates those costs will exceed the Estimated Costs (“the Excess”) and the undertaker must pay to the County Highway Authority within 28 days of the date of that notice a sum equal to the Excess.

(5) Within 91 days of the issue of the final certificate for each Phase of the County Highway Works pursuant to paragraph 7 the local highway authority must give the undertaker a final account of the costs referred to in sub-paragraph (1) above and within 28 days from the expiry of the 91 day period—

- (a) if the account shows a further sum as due to the local highway authority the undertaker must pay to the local highway authority the sum shown due to it in that final account; and
- (b) if the account shows that the payment or payments previously made have exceeded those costs the local highway authority must refund the difference to the undertaker.

(6) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the party to whom it was due interest at 1% above the rate payable in respect of compensation under Section 32 of the Land Compensation Act 1961 for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional Certificate and Defects and Maintenance Period

6.—(1) As soon as each Phase of the County Highway Works has been completed and—

- (a) a Stage 3 Road Safety Audit for that Phase has been carried out;
- (b) any resulting recommendations have been complied with and any exceptions agreed;
- (c) the undertaker has provided a plan clearly identifying the extent of any land which is to become highway maintainable at public expense by the local highway authority upon the issue of the final certificate referred to in paragraph 7;
- (d) the undertaker providing confirmation that any additional land which is to be dedicated as highway maintainable at public expense is so dedicated; and
- (e) the As Built Information has been provided to the local highway authority,

the local highway authority must issue a provisional certificate of completion in respect of that Phase of the County Highway Works such certificate not to be unreasonably withheld or delayed.

(2) Subject to sub-paragraph (3) the undertaker must at its own expense remedy any and all defects and of any and all imperfections and all other faults arising out of defective design materials or workmanship or of any other nature whatsoever (which for the avoidance of doubt shall include all damage to the highway whether accidental or otherwise (but only that attributable to defective design materials or workmanship and excluding Winter Maintenance)) in that Phase of the County Highway Works as reasonably required to be remedied by the local highway authority and identified by the local highway authority during a period of 24 months from the date of the provisional certificate in respect of that Phase.

(3) The local highway authority will provide to the undertaker all information on any accident or incident resulting in damage to the highway which occurs in any Phase of the County Highway Works during the period of 24 months referred to in sub-paragraph (2) above.

(4) The undertaker must submit Stage 4 Road Safety Audits for each Phase of the County Highway Works as required by and in line with the timescales stipulated in the Road Safety Audit Standard. The undertaker must comply with the findings of the Stage 4 Road Safety Audits and be responsible for all costs of and incidental to such audits.

Final Certificate

7.—(1) The undertaker shall apply to the local highway authority for the issue of the final certificate in respect of each Phase at the expiration of the 24 month period in respect of that Phase referred to in paragraph 6(2) or if later on the date on which any defects or damage arising during that period which are the responsibility of the undertaker under the provisions of paragraph 6 have been made good to the reasonable satisfaction of the local highway authority.

(2) If the provisions of sub-paragraph 7(1) are satisfied the local highway authority must issue a final certificate for the Phase of the County Highway Work concerned such certificate not to be unreasonably withheld or delayed.

Security

8.—(1) Subject to paragraph 3(3) above the undertaker must provide security for the carrying out of the County Highway Works as follows—

- (a) prior to the commencement of each Phase the County Highway Works within that Phase will be secured by a bond from a bondsman first approved by the local highway authority substantially in the form of the draft bond attached at Annex 1 or such other form that may be agreed between the undertaker and the local highway authority to indemnify the local highway authority against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of that Phase of the County Highway Works under the provisions of this Part of this Schedule provided that the maximum liability of the bond shall not exceed the Bond Sum relating to that Phase.

(2) Each Bond Sum shall be progressively reduced as follows—

- (a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the Contractors) from the undertaker of the payments

made from time to time to the Contractor (“the submission”) the local highway authority may in writing authorise the reduction of the Bond Sum by such proportion of the Bond Sum as amounts to 75% of those payments provided that (i) there shall not be more than two submissions of written confirmation to the local highway authority during each phase of the County Highway Works (ii) an evaluation of the County Highway Works completed and remaining has been carried out by the undertaker and audited and agreed by the local highway authority to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the Contractors. The local highway authority shall only be required to provide the said authorisation should it be satisfied that the monies remaining secured by the Bond Sum shall be sufficient to cover all remaining costs and liabilities anticipated to be incurred in completing the County Highway Works plus an additional 10% and (iii) the operation of this paragraph will not enable the overall reduction of the bond to be greater than 70% of the original Bond Sum;

- (b) within 20 working days of completion of each Phase of the County Highway Works (as evidenced by the issuing of the provisional certificate in respect of that Phase pursuant to paragraph 6(1)) the local highway authority must in writing release the bond provider from its obligations in respect of 75% of the Bond Sum relating to that Phase save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date; and
- (c) within 20 working days of the issue of the final certificate for each Phase of the County Highway Works referred to in paragraph 7 the local highway authority must in writing release the bond provider from all its obligations in respect of the bond relating to that Phase save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date.

Commuted sums

9.—(1) Within 28 days following the issue of the final certificate in respect of any Phase the undertaker must pay to the local highway authority any commuted sums payable in respect of that Phase calculated as provided for in sub-paragraph (2).

(2) The rates to be applied in calculating the Commuted Sums payable must be calculated in accordance with Northamptonshire County Council’s Commuted Sum Calculator or as otherwise agreed between the undertaker and the local highway authority prior to commencement of work on any Phase.

Insurance

10. The undertaker must prior to commencement of the County Highway Works effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (Ten million pounds) for any one claim against any legal liability for damage loss or injury to any property or any person arising out of or in connection with the execution of the County Highway Works or any part thereof by the undertaker.

Indemnification

11.—(1) The undertaker must in relation to the carrying out of the County Highway Works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the highway authority and must indemnify the local highway authority from and against all costs, expenses, damages, losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the County Highway Works; provided that—

- (a) the foregoing indemnity shall not extend to any costs expenses liabilities and damages caused by or arising out of the neglect or default of the local highway authority or its officers, servants, agents or contractors or any person or body for whom it is responsible;
- (b) the local highway authority must notify the undertaker upon receipt of any claim; and

- (c) the local highway authority must following the acceptance of any claim notify the quantum thereof to the undertaker in writing and the undertaker must within 14 days of the receipt of such notification pay to the local highway authority the amount specified as the quantum of such claim.

Warranties

12. The undertaker must procure warranties from the contractor and designer of each Phase to the effect that all reasonable skill, care and due diligence will be exercised in designing and constructing that Phase including the selection of materials, goods, equipment and plant such warranties to be provided to the local highway authority before that Phase commences.

Approvals

13.—(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing save that any such approvals, certificates, consents or agreements shall be deemed to have been given if it is neither given nor refused within 42 days of the specified day.

(2) In this paragraph “specified day” means—

- (a) the day on which particulars of the matter are submitted to the local highway authority under the provisions of this Part of this Schedule; or
- (b) the day on which the undertaker provides the local highway authority with any further particulars of the matter that have been reasonably requested by the local highway authority or within 28 days of the date in sub-paragraph (2)(a), whichever is the later.

Expert Determination

14.—(1) Article 49 (arbitration) does not apply to this Part of this Schedule except in respect of sub-paragraph (5) below.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert’s appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission; and
- (c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49.

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Annex 1

BY THIS BOND [] [(Company Regn No)] whose registered office is situate at [] (“**the undertaker**”) and [] [(Company Regn No)] whose registered office is situate at [] (“**the Surety**”) are jointly and severally bound to [] of [] (“the []”) this [] day of [] 200[] in the sum of [] pounds (£[Surety Sum to the payment of which sum the undertaker and the Surety hereby jointly and severally bind themselves their successors and assigns

WHEREAS under a Development Consent Order known as The Northampton Gateway Rail Freight Interchange Order 201[X] (“the DCO”) the undertaker is empowered to commence execute perform and complete the highway works mentioned therein in such manner and within such time and subject to such conditions and stipulations as are particularly specified and set forth in the DCO and also to pay to the local highway authority such sums as are therein provided **NOW THE CONDITIONS** of this Bond are such that if the undertaker shall duly observe and perform all the terms provisions covenants conditions and stipulations of Part 3 of Schedule 13 of the DCO on the undertaker’s part to be observed and performed according to the true purport intent and meaning thereof or if on default by the undertaker the Surety shall satisfy and discharge the damages sustained by the local highway authority thereby up to the amount of this Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect in accordance with the provisions of the DCO (and including any reductions as provided for in the DCO) but no allowance of time by the local highway authority under the DCO nor any forbearance or forgiveness in or in respect of any matter or thing concerning the DCO on the part of the local highway authority shall in any way release the Surety from any liability under this Bond

It is hereby agreed that this Bond will be reduced and released in accordance with paragraph 8 of Part 3 of Schedule 13 of the DCO.

[Attestation]

PART 4

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

1. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

2. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable it to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protection, cables or other apparatus belonging to or maintained by Cadent for the purpose of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of Cadent for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to the apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Part of this Schedule;

“Cadent” means Cadent Gas Limited (Company Number 10080864) whose registered office is situated at Ashbrook Court, Prologis Park, Central Boulevard, Coventry CV7 8EP and any successor in title or assign including any successor to their licence as a gas transporter under Part 1 of the Gas Act 1986;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 6(2) or otherwise; and/or
- (b) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (Cadent policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22”).

On Street Apparatus

3.—(1) Except for paragraphs 4 (apparatus of Cadent in stopped up streets), 6 (removal of apparatus) and 7 (facilities and rights for alternative apparatus) (in so far as paragraph 3(2) below applies), 8 (retained apparatus: protection), 9 (expenses) and 10 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the undertaker, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 6 and 7 of this Part of this Schedule shall apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within adopted public highway.

Apparatus of Cadent in stopped up streets

4.—(1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 10 (permanent stopping up of streets), if Cadent has any apparatus in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to the Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street but nothing in this paragraph shall affect any right of the undertaker or Cadent to require removal of the Apparatus under paragraph 6.

(2) Notwithstanding the temporary stopping up or diversion of any street under the powers of article 11 (temporary stopping up of streets), Cadent will be at liberty at all times to take all necessary access across any such stopped up street and/or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

(3) The protective provisions in this Part of this Schedule apply and take precedence over article 37(2) to (7) of this Order which do not apply to Cadent.

Acquisition of land

5.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker may not acquire any land interest or apparatus or acquire, extinguish, interfere with or otherwise override any easement and/or other interest or right of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 5(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent

and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and/or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule shall prevail.

(4) Any agreement or consent granted by Cadent under paragraph 8 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph 5(1).

Removal of apparatus

6.—(1) If, in the exercise of the agreement reached in accordance with paragraph 5 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of Cadent in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Cadent to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, with the undertaker's assistance if required by Cadent, save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of any such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under paragraph 7(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter will be referred to arbitration in accordance with paragraph 14 of this Part of this Schedule and the arbitrator shall make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

8.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to the undertaker a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to the undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraph (1) applies until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
- (b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraph (1) applies, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by Cadent for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any authorised works (or any

relevant part thereof) for which protective works are required and the undertaker must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If Cadent in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22” and HSE’s “HS(~G)47 Avoiding Danger from underground services”.

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 9.

Expenses

9.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or incurred by the undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by the undertaker as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under 6(3); and/or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) or article 37 (apparatus and rights of statutory undertakers in stopped up streets) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (i) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (ii) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 10.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Enactments and agreements

11. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to Cadent on the date on which this Order is made.

Co-operation

12.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 6(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent’s undertaking and Cadent shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

13. If in consequence of the agreement reached in accordance with paragraph 5(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

14. Any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 49 (arbitration).

Notices

15. The plan and scheme submitted to Cadent by the undertaker pursuant to paragraph 8(1) must be sent to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

PART 5

FOR THE PROTECTION OF ANGLIAN WATER LIMITED

1. For the protection of Anglian Water, the following provisions shall, unless otherwise agreed in writing between the Undertaker and Anglian Water, have effect.

2. In this Part of this Schedule—

“Anglian Water” means Anglian Water Services Limited (Company Registration Number 02366656) whose registered office is situated at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridge PE29 6XU

“apparatus” means any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage and—

- (a) any drain or works vested in Anglian Water under The Water Industry Act 1991;
- (b) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of The Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works;

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in no less efficient a manner than previously;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes sections, drawings, specifications and method statements; and

“standard protection strips” means the strips of land falling the following distances to either side of the medial line of any relevant pipe or apparatus; 2.25 metres where the diameter of the pipe is less than 150 millimetres, 3 metres where the diameter of the pipe is between 150 and 450 millimetres, 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres and 6 metres where the diameter of the pipe exceeds 750 millimetres.

3. The undertaker shall not interfere with, build over or build within 6 metres of any apparatus within the Order Land or execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or execute any filling around the apparatus (where the apparatus is laid in a trench) within the standard protection strips unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed.

4. The alteration, extension, removal or re-location of any apparatus shall not be implemented until—

- (a) any requirement for any permits under the Environmental Permitting Regulations 2010 or other legislation and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and section of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991,

such agreement not to be unreasonably withheld or delayed; and such works to be executed only in accordance with the plan, section and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

5. In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension shall take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus.

6. Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker shall, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 49.

7. If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker shall provide such alternative means of access to such apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

8. If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the company, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection of other Anglian Water assets.

9. If for any reason or in consequence of the construction of any of the works referred to in paragraphs 4 to 6 and 8 above any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker shall —

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

by reason or in consequence of any such damage or interruption.

PART 6

FOR THE PROTECTION OF ELECTRICITY UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficiently than previously;

“apparatus” means electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;

“functions” includes powers and duties;

(a) 1989 c. 29.

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“specified work” means so much of any of the authorised development that is carried out within 6 metres of any apparatus; and

“utility undertaker” means any licence holder within the meaning of Part 1 of the Electricity Act 1989 for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 10 (permanent stopping up of streets), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 6 or the power of the undertaker to carry out works under paragraph 8.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 11 (temporary stopping up of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Acquisition of land

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 60 days’ written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to a requirement on the utility undertaker to use its compulsory purchase powers to this end unless the utility undertaker elects to do so.

(4) If, for the purpose of executing any works, the undertaker requires to remove or divert any apparatus placed within the Order land, and alternative apparatus or any part of such alternative apparatus is to be constructed in land other than the Order land as a consequence of the removal or diversion of apparatus, then the undertaker shall use its reasonable endeavours to obtain alternative rights in other land in which the alternative apparatus is to be constructed.

(5) Should the undertaker not be able to obtain the alternative rights required under sub-paragraph (2)(a) then the undertaker and the utility undertaker shall use reasonable endeavours to agree a reasonably practicable and mutually agreeable alternative engineering solution which does not require alternative apparatus to be constructed in land other than Order land and does not require alternative rights.

(6) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (Arbitration).

(7) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(8) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (Arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

8.—(1) Not less than 60 days before starting the execution of any specified works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or

may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

9.—(1) The undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 6 (2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. At all times when carrying out any works authorised under the Order the undertaker shall comply with the utility undertaker's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Addition) (2014) as the same may be replaced from time to time.

Co-operation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 6(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 7

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

2. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in Part 1 of Schedule 3 of the Digital Economy Act 2017(b);

“electronic communications apparatus” has the same meaning as in the electronic communications code; “the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(c);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers conferred by article 33 (statutory undertakers and operators of the electronic communications code network) is subject to Part 10 of Schedule 3A to the 2003 Act.

(a) 2003 c. 21.

(b) 2017 c. 30.

(c) See section 106 of the Communications Act 2003 (c. 21). Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30).

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 49 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

SCHEDULE 14

Article 46

MISCELLANEOUS CONTROLS

Public general legislation

Introduction

1. This Schedule applies, modifies and excludes statutory provisions which relate to matters for which provision may be made in this Order.

Highways Act 1980

2.—(1) Section 141 of the 1980 Act(a) (restriction on planting trees etc. in or near carriageway) shall not apply to any tree or shrub planted in the course of the authorised development before completion of construction.

(2) Section 167 of the 1980 Act(b) (powers relating to retaining walls near streets) shall not apply in relation to—

- (a) the erection of a wall in the course of the authorised development before completion of construction, or

(a) 1980 c. 66. Section 141 was amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48).

(b) 1980 c. 66. Section 167 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48).

- (b) a wall on land on which works are being carried out, or are to be carried out, in pursuance of the authorised development before completion of construction.

New Roads and Street Works Act 1991

3.—(1) The powers conferred by section 56(1) and (1A) of the 1991 Act^(a) (powers to give directions as to the timing of proposed and subsisting street works) shall not apply in relation to the authorised development.

(2) Section 56A of the 1991 Act^(b) (power to give directions as to placing of apparatus) shall not apply in relation to the placing of apparatus in the course of the authorised development.

(3) No restriction under section 58(1) of the 1991 Act^(c) (power to impose restriction on execution of street works in the twelve months following completion of substantial road works) shall have effect in relation to the authorised development.

(4) Section 61(1) of the 1991 Act (under which the consent of the street authority is required for the placing of apparatus in a protected street) shall not apply to the placing of apparatus in the course of the authorised development.

(5) Section 62(2) of the 1991 Act (power following designation of a protected street to require removal or repositioning of apparatus already placed in the street) shall not apply in relation to apparatus placed in the course of the authorised development.

(6) Section 62(4) of the 1991 Act (power when designation as protected street commences or ceases to give directions with respect to works in progress) shall not apply in relation to the authorised development.

(7) Section 63(1) of the 1991 Act (under which Schedule 4 to that Act has effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties) shall not apply in relation to the authorised development.

(8) The powers conferred by section 73A(1) and 78A(1) of the 1991 Act^(d) (requirements for undertaker to re-surface street) may not be exercised in relation to the authorised development.

(9) Sections 74 and 74A of the 1991 Act^(e) (charge for occupation of the highway and charge determined by reference to duration of works) shall not apply in relation to the authorised development.

(10) Schedule 3A to the 1991 Act (restriction on works following substantial street works) shall not apply where a notice under section 54 (advance notice of certain works) or 55 (notice of starting date of works) of that Act^(f) is given in respect of the authorised development.

(11) No notice under paragraph 2(1)(d) of that Schedule (power by notice to require notification of works which an undertaker proposes to carry out in a part of a highway to which a proposed restriction applies) shall have effect to require the notification of works proposed to be carried out in the course of the authorised development.

(12) No directions under paragraph 3 of that Schedule (directions as to the date on which undertakers may begin to execute proposed works) may be issued to the undertaker in relation to the authorised development.

(a) 1991 c. 22. Section 56(1) and (1A) were amended by section 43 of the Traffic Management Act 2004 (c. 18).

(b) 1991 c. 22. Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(c) 1991 c. 22. Section 58(1) was amended by section 51(1), (2) of the Traffic Management Act 2004 (c. 18).

(d) 1991 c. 22. Section 73A was inserted by section 55(1) of the Traffic Management Act 2004 (c. 18). Section 78A was inserted by section 57(1) of the Traffic Management Act 2004 (c. 18).

(e) 1991 c. 22. Section 74 was amended by sections 256 and 274 of, and Part V(2) of Schedule 31 to, the Transport Act 2000 (c. 38), section 40(4) and section 52(5) of the Traffic Management Act 2004 (c. 18), and section 1(6) of, and paragraphs 113 and 119 of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7). Section 74A was inserted by section 255(1) of the Transport Act 2000 (c. 38) and was amended by section 1(6) of, and paragraphs 113 and 120 of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7) and section 40(4) of the Traffic Management Act 2004 (c. 18).

(f) 1991 c. 22. Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18). Section 54 was amended by section 40(1) and (2) and section 49(1) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18). Section 55 was amended by section 40(1) and (2), section 49(2) and section 51(1) and (9) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(13) Paragraph 3(4) of that Schedule (under which it is an offence for an undertaker to execute street works before the completion of certain other street works) shall not apply in relation to the execution of works in the course of the authorised development.

(14) Paragraph 5(1) of that Schedule (effect of direction under paragraph 4 restricting further works) shall not apply in relation to the execution of works in the course of the authorised development.

Local Government (Miscellaneous Provisions) Act 1976

4. Section 42 of The Local Government (Miscellaneous Provisions) Act 1976^(a) (certain future local Acts, etc., to be subject to the planning enactments, etc., except as otherwise provided) shall not apply to the extent that it would make provisions of this Order authorising the authorised development subject to other provisions.

SCHEDULE 15

MEMBERSHIP, ROLE AND PROTOCOL OF THE SUSTAINABLE TRANSPORT WORKING GROUP

1. The Sustainable Transport Working Group (STWG) will comprise representatives of—
 - (a) the undertaker, who will normally take the Chair;
 - (b) the local highway authority;
 - (c) each of the district planning authorities within whose administrative area the Order limits lie;
 - (d) interested railway or bus operators (non-voting);
 - (e) travel plan co-ordinators for the individual warehouses (non-voting); and
 - (f) such other interested parties, stakeholders and expert bodies whose attendance members of the STWG may from time to time believe to be beneficial (non-voting),except that if at the time the STWG is constituted or any time thereafter a unitary authority is established then (b) and (c) will be replaced by both a highway representative and a planning representative of the unitary authority.
2. The role of the STWG will be—
 - (a) to oversee the delivery of the framework travel plan and the public transport strategy;
 - (b) to review the public transport services serving the authorised development in light of levels of usage and timing of provision with the objective of maximising usage as set out in the public transport strategy;
 - (c) to decide upon the appropriate disbursement of monies from the bus service fund payable pursuant to the provisions related thereto contained in the development consent obligation;
 - (d) to oversee the work of the area-wide Travel Plan Co-ordinator appointed under the provisions of the framework travel plan, receiving the monitoring and review reports on the performance of the framework travel plan and public transport strategy and recommending further action to maximise sustainable travel patterns in connection with the authorised development as deemed necessary;
 - (e) to consider all occupier-specific travel plans submitted pursuant to requirement 4(2) and to advise the relevant planning authority on their consistency with, and support for, the

^(a) 1976 c. 57. Section 42 was amended by section 6(2) of, and the Schedule to, the Ports (Finance) Act 1985 (c. 30), and section 15 of the Food and Environment Protection Act 1985 (c. 48).

agreed measures and targets in the framework travel plan and public transport strategy;
and

- (f) to participate in any reviews of the framework travel plan and the public transport strategy.

3. The STWG will be administered by the undertaker in accordance with the following protocol—

- (a) Meetings of the STWG will be convened, administered and serviced by the area-wide Travel Plan Co-ordinator appointed under the provisions of the framework travel plan.
- (b) Meetings will take place at not more than 6 monthly intervals in a venue provided by the undertaker (or such other frequency, place and timing as the STWG members may subsequently agree upon).
- (c) Not less than ten clear working-days' notice of meetings will be given to all parties accompanied by an agenda and background papers with relevant information for the matters to be considered.
- (d) All members shall have the right to propose an item to be discussed at the meeting under urgent business.
- (e) A meeting shall only be quorate if a representative from both the local highway authority and the undertaker is present.
- (f) The area-wide Travel Plan Co-ordinator shall minute each meeting and circulate copies of the minutes as soon as practical to all invited parties. Such minutes, once confirmed at the subsequent meeting, will become a matter of public record, subject to redaction of individual items of commercial or personal confidentiality.
- (g) The STWG shall at all times be free to consult with other relevant authorities and bodies and shall at the election of any member be at liberty to invite persons to attend meetings in a non-voting capacity.

4. Decisions of the STWG are to be taken on a majority vote with each voting member of the STWG present having a single vote. In the event of a vote causing an impasse, or if any of the voting members disagree with the decision made and wish it to be reviewed then the decision (the “disputed decision”) shall be reviewed using the Decision Review Mechanism set out in paragraph 5. below.

5. In the event of any disputed decision of the STWG being subject to review as provided by paragraph 4 then the following protocol shall apply—

- (a) The voting members involved in the disputed decision (“the relevant members”) will attempt to resolve the matter and reach agreement on the disputed decision if possible without delay.
- (b) If the relevant members are unable to resolve the matter within three weeks of the dispute decision having been taken any relevant member may, by serving notice by email and recorded delivery post on all the other relevant members (“the notice”) with a copy to all other members of the STWG within fourteen days of the expiry of the three weeks referred to above, or later by agreement between the relevant members refer the disputed decision to an expert (“the expert”) for resolution.
- (c) In order to refer the disputed decision to the expert the notice must specify—
 - (i) the nature, basis and brief description of the disputed decision; and
 - (ii) the expert proposed.
- (d) In the event that the relevant members are unable to agree whom should be appointed as the expert within 14 days after the date of the notice then any of the relevant members may request the President of the Law Society to nominate the expert at their joint expense.
- (e) The expert will be appointed subject to an express requirement that the expert reaches a decision on how the disputed decision is to be resolved and communicates it to the

relevant members within the minimum practicable timescale allowing for the process in paragraph 5(f) and the nature and complexity of the disputed decision and in any event not more than 42 days from the date of the expert's appointment to act.

- (f) Following appointment the expert will be required to give notice to each of the relevant members inviting each of them to submit to the expert within 21 days written submissions and supporting material on their position in relation to the disputed decision with copies of those submissions and material being provided at the same time to the other relevant members. The expert will afford to each of the relevant members an opportunity to make counter submissions within a further 14 days in respect of any such submission and material.
- (g) The expert when making the expert's determination shall have regard to the contents of any relevant national planning or transport policy and any relevant transportation policy adopted by the local highway authority and, where relevant, any increase or decrease in the traffic including public transport and travel by other sustainable means arising from the authorised development compared with that presented in the transport assessment or such other assessment, automatic traffic counts or monitoring data as may be supplied by the relevant members.
- (h) The expert shall act as an expert and not as an arbitrator and the expert's decision will (in the absence of manifest error) be final and binding on the relevant members and at whose cost shall be at the discretion of the expert or in the event that the expert makes no determination, such costs will be borne by the relevant members in equal shares.

SCHEDULE 16

Article 47

CERTIFICATION OF PLANS AND DOCUMENTS

1. Documents for certification that they are true copies of the documents referred to in this Order—

<i>Document/Plan</i>	<i>Document Number</i>	<i>Document date/Plan number with revision number</i>
Access and rights of way plans	2.3	NGW-BWB-LSI-XX-DR-C-00170-P5
Key Plan		
Sheet 1	2.3A	NGW-BWB-LSI-01-DR-C-00171-P6
Sheet 2	2.3B	NGW-BWB-LSI-02-DR-C-00172-P5
Sheet 3	2.3C	NGW-BWB-LSI-03-DR-C-00173-P7
Sheet 4	2.3D	NGW-BWB-LSI-04-DR-C-00174-P7
Sheet 5	2.3E	NGW-BWB-LSI-05-DR-C-00175-P5
The book of reference	4.3B	26 March 2019
The design and access statement	6.9	Rev S2 18 May 2018
The environmental statement	5.2	18 May 2018 (subject to the substitutions set out below): (i) Figures 2.1, 2.2, 2.3 and 10.1 – 13 August 2018; (ii) Appendix 2.1 (Construction and Environmental Management Plan) –19 March 2019;

		(iii) Appendix 2.4 (Comparative Assessment of Northampton Gateway and Rail Central) – 8 January 2019; (iv) Appendix 5.12 (Landscape and Ecological Management Plan) – 30 November 2018 (v) Chapter 9 (Air Quality) – 26 February 2019
The highway classification plans Key Plan	2.5	NGW-BWB-LSI-XX-DR-C-180-P5
Sheet 1	2.5A	NGW-BWB-LSI-01-DR-C-181-P5
Sheet 2	2.5B	NGW-BWB-LSI-02-DR-C-182-P5
Sheet 3	2.5C	NGW-BWB-LSI-03-DR-C-183-P6
Sheet 4	2.5D	NGW-BWB-LSI-04-DR-C-184-P5
The highway plans Key Plan	2.4	NGW-BWB-HGN-XX-DR-C-100-P6
General Arrangement Sheet 1	2.4A	NGW-BWB-HGN-01-DR-C-101-P8
General Arrangement Sheet 2	2.4B	NGW-BWB-HGN-02-DR-C-102-P9
General Arrangement Sheet 3	2.4C	NGW-BWB-HGN-03-DR-C-103-P9
General Arrangement Sheet 4	2.4D	NGW-BWB-HGN-04-DR-C-104-P10
General Arrangement Sheet 5	2.4E	NGW-BWB-HGN-05-DR-C-105-P8
General Arrangement Sheet 6	2.4F	NGW-BWB-HGN-06-DR-C-106-P9
Cross Sections Sheet 1	2.4G	NGW-BWB-HGN-01-DR-C-131-P7
Cross Sections Sheet 2	2.4H	NGW-BWB-HGN-02-DR-C-132-P5
Cross Sections Sheet 3	2.4J	NGW-BWB-HGN-03-DR-C-133-P5
Cross Sections Sheet 4	2.4K	NGW-BWB-HGN-04-DR-C-134-P6
Cross Sections Sheet 5	2.4L	NGW-BWB-HGN-05-DR-C-135-P4
Long Sections Sheet 1	2.4M	NGW-BWB-HGN-01-DR-C-141-P7
Long Sections Sheet 2	2.4N	NGW-BWB-HGN-02-DR-C-142-P6
Long Sections Sheet 3	2.4P	NGW-BWB-HGN-03-DR-C-143-P6
Long Sections Sheet 4	2.4Q	NGW-BWB-HGN-04-DR-C-144-P4
Long Sections Sheet 5	2.4R	NGW-BWB-HGN-05-DR-C-00145-P4

Long Sections Sheet 6	2.4S	NGW-BWB-HGN-06-DR-C-146-P3
General Arrangement Alternative to Document 2.4A	2.4T	NGW-BWB-HGN-01-DR-C-107-P3
General Arrangement Alternative to Document 2.4B	2.4U	NGW-BWB-HGN-02-DR-C-108-P4
The illustrative rail terminal plan	2.8	4054-17-S1
The land plans		
Key Plan	2.1	62241114-001 2.1 08
Sheet 1	2.1A	62241114-001 2.1A 06
Sheet 2	2.1B	62241114-001 2.1B 08
Sheet 3	2.1C	62241114-001 2.1C 06
Sheet 4	2.1D	62241114-001 2.1D 09
Sheet 5	2.1E	62241114-001 2.1E 06
Sheet 6	2.1F	62241114-001 2.1F 07
The parameters plan	2.10	4054-R007-S2
The railway plans		
General Arrangement	2.9A	NGW-BWB-RGN-XX-DR-C-110-P6
Long Sections Sheet 1 of 2	2.9B	NGW-BWB-RGN-01-DR-C-111-P4
Long Sections Sheet 2 of 2	2.9C	NGW-BWB-RGN-02-DR-C-112-P4
Cross Sections	2.9D	NGW-BWB-RGN-XX-DR-C-113-P4
The Rail Central footpath connections plan	2.15	NGW-BWB-GEN-XX-SK-C-SK91-P3
The speed limit plans		
Key Plan	2.7	NGW-BWB-LSI-XX-DR-C-00190-P5
Sheet 1	2.7A	NGW-BWB-LSI-01-DR-C-00191-P6
Sheet 2	2.7B	P NGW-BWB-LSI-02-DR-C-00192-6
Sheet 3	2.7C	NGW-BWB-LSI-03-DR-C-00193-P7
Sheet 4	2.7D	NGW-BWB-LSI-04-DR-C-00194-P7
The traffic regulation plans		
Key Plan	2.6	NGW-BWB-LSI-XX-DR-C-00150-P5
Sheet 1	2.6A	NGW-BWB-LSI-01-DR-C-00151-P3
Sheet 2	2.6B	NGW-BWB-LSI-02-DR-C-00152-P3
Sheet 3	2.6C	NGW-BWB-LSI-03-DR-C-00153-P1
The works plans		
Key Plan	2.2	NGW-BWB-LSI-XX-DR-C-00160-P13
Sheet 1	2.2A	NGW-BWB-LSI-01-DR-C-00161-P10
Sheet 2	2.2B	NGW-BWB-LSI-02-DR-C-00162-P7

Sheet 3	2.2C	NGW-BWB-LSI-03-DR-C-00163-P8
Sheet 4	2.2D	NGW-BWB-LSI-04-DR-C-00164-P6
Sheet 5	2.2E	NGW-BWB-LSI-05-DR-C-00165-P6
Sheet 6	2.2F	NGW-BWB-LSI-06-DR-C-00166-P6
Sheet 7	2.2G	NGW-BWB-LSI-XX-DR-C-00167-P5

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises Roxhill (Junction 15) Limited (“the undertaker”) to construct, operate and maintain, the new Northampton Gateway Rail Freight Interchange together with associated development. The undertaker is authorised by the Order to acquire compulsorily land and rights over land. The Order also authorises the making of alterations to the highway network, stopping up and diversion of public rights of way and the discharge of water.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 47 (certification of plans and documents) of this Order may be inspected free of charge at the offices of South Northamptonshire District Council at The Forum, Moat Lane, Towcester NN12 6AD and at Northampton Borough Council at The Guildhall, St Giles’ Square, Northampton NN1 1DE.