

# Northampton Gateway SRFI Proposed DCO Amendment

## Council Objections

It is notable that the unitary authority in which Northampton Gateway is situated (West Northamptonshire Council) has objected to the proposed DCO amendment, and Oxfordshire County Council has raised its significant concerns. The latter council is not directly affected by Northampton Gateway but has nonetheless expressed a clear and valid view with regard to the traffic implications of the proposed amendment. Both councils will be very familiar with planning legislation although neither are responsible for approving nationally significant infrastructure projects.

It is also notable that the nine parish councils that have responded have all objected to Segro's proposed DCO amendment.

## Additional Traffic

If the proposal by Segro (to permit 37% of the floor area of the warehousing to be occupied before the rail connection is made) is approved, it would mean that the first occupiers of Northampton Gateway would be logistics companies totally reliant on road-based transport. There is a high probability that having started as road-based operations that most of them would continue to operate in that fashion after the rail connection has been made. As the traffic forecasts drawn up by Segro and/or their predecessor Roxhill were originally made on the basis that Northampton Gateway would not become operational until after the rail connection had been made, it is therefore highly probable that additional road-based traffic would be generated in the long term by this SRFI due to the greater than anticipated proportion of warehouse occupiers not making use of the rail connection.

This point has been very clearly expressed by Oxfordshire County Council whose opinion should be respected. I reproduce the main part of their response:

*"However, whilst we understand the difficulty presented by uncertainty over the timing of the connection to the rail network, we wish to express our concern about allowing occupation of the site prior to this connection being made. Strategic Rail Freight Terminals have NSIP status on the basis of the environmental benefits of transferring road freight to rail, yet there can be no restriction requiring occupiers of the site to use the rail terminal. Given the attractiveness of the site in terms of proximity to the strategic road network, allowing occupations when there is no rail connection, and no certain date of that connection being made, increases the risk of the site being occupied by logistics firms who do not need the rail connection and therefore may not become users of it in the future. That in turn reduces the potential for the site to achieve its stated environmental benefits."*

The same concern about additional road traffic (beyond that previously forecast) was also expressed by 122 other consultation respondents. In its January 2023 response regarding additional road traffic, Segro has only considered the scenario prior to the rail connection

being made. It has ignored the higher proportion of logistics operators who would almost certainly be using road-based transport compared to the situation if warehouses could not be occupied until the rail connection was completed. Segro have a vested interest in now claiming that there will be no additional traffic beyond that which they previously forecast, even though their proposed amendment is highly likely to result in there being a greater proportion of road-based logistics operators situated at Northampton Gateway in the long term as well as the short term. East Midlands Gateway has been used as an example by Segro to suggest that initial occupiers do subsequently switch from road to rail usage. What happened at that SRFI is by no means certain to be repeated at Northampton Gateway.

## Material Change

DCLG Guidance “Planning Act 2008” is the relevant document in determining whether a change is classified as material or non-material. The latter part of paragraph 16 contains the following: *“Additional impacts that may be relevant to whether a particular change is material will be dependent on the circumstances of a particular case, but examples might include those relating to visual amenity from changes to the size or height of buildings; impacts on the natural or historic environment; and impacts arising from additional traffic.”* On the basis of the previous paragraphs concerning additional traffic, it appears that this proposed DCO amendment should be classified as a material change. Consequently, the consultation conducted in August/September 2022 was carried out on an invalid basis because the proposal was classified as non-material when it should have been classified as material. Furthermore, material changes require an updated Environmental Statement to be produced, and to my knowledge Segro have not provided an updated one.

## National Policy Statement for National Networks

The principles for strategic rail freight interchanges are set out in the National Policy Statement for National Networks. That document contains the following:

*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.***

*(My emphasis in bold)*

That makes it very clear that a SRFI should be rail connected from day one.

## Development Consent Order for Northampton Gateway

The Development Consent Order (DCO) issued for Northampton Gateway contained the following statement:

Components of development and phasing, 3 (3) on page 44

*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.*

This is the specific requirement for Northampton Gateway, as issued by the Planning Inspectorate, for the rail connection to be available before any warehouse can be occupied.

Segro, in its application statement published on 10<sup>th</sup> August 2022, makes clear that it originally intended to have the facility of agreeing with the local planning authority what proportion of the total warehouse capacity could be occupied before the rail connection was first made. Application Statement paragraph 3.2:

*It was for this reason, which is entirely outside of the Applicant's control, that, when putting forward the draft DCO which included a commitment to the provision of the rail terminal, the Applicant included additional wording in the relevant requirement allowing for the occupation constraint to be varied by agreement with the local planning authority if necessary. The additional wording was not included in the approved DCO, hence the need for an amendment to the DCO.*

So, the Planning Inspectorate did not accept that variance to the underlying principle of the National Policy Statement for National Networks when the original planning application for Northampton Gateway was made.

Segro, by proceeding to build Northampton Gateway such that its completion date would be more than one year in advance of the rail connection to the national network being provided, have ignored the requirements of the National Policy Statement for National Networks and have ignored the specific requirements of their Development Consent Order. In doing so, they have taken a commercial risk which was clearly their choice. Segro have assumed that their proposed amendment to their DCO would be approved, and they have no right to automatically expect such an outcome. Their actions should not influence the decision-making process of government authorities. Segro have quoted the situations allowed at East Midlands Gateway and West Midlands Interchange as precedents. However, I do not consider that these should be seen as precedents as they are in contravention of the National Policy Statement for National Networks. That view is shared by Oxfordshire County Council.

The original decision by the Planning Inspectorate to refuse the request of allowing the partial occupation of Northampton Gateway before the rail connection was made was the correct decision and there is no good reason to change that decision now. Developers who do not respect the conditions of their DCO should not be encouraged.

## **Network Rail Connection Date**

For the consultation last autumn, we were told that the expected date for the Network Rail connection between Northampton Gateway and the national network would be January 2024. In Segro's latest document dated January 2023, Network Rail's date for connection has slipped to April 2024. Anyone with experience of Network Rail's recent history would have reservations about their ability to deliver on their promised dates. So, there is every likelihood that the connection date will slip further. This concern has also been expressed by West Northamptonshire Council.

## **Local Authority Involvement**

As the local planning authority has been removed from any decision-making process proposed by Segro (see comment from Segro at bottom of page 10 and top of page 11 of their January 2023 document), then the decision made by government regarding the proposed amendment will be effective immediately rather than requiring a subsequent decision by West Northamptonshire Council.

## **Conclusion**

I retain my strongly held view that the amendment requested by Segro in respect of Northampton Gateway should be refused.

Andrew Bodman  
7<sup>th</sup> February 2023