
Container storage area with containers stored up to 15 metres high (5 containers) together with rail terminal lighting columns at 25 metres high.

**Application Reference:
22/00867/FULM**

Zone C, East Midlands Gateway, Land North of East Midlands Airport, Castle Donington, Derbyshire.

**Date Registered:
23 May 2022
Consultation Expiry:
6 July 2022
13 Week Date:
22 August 2022
Extension of Time:
None Agreed**

**Applicant:
SEGRO (EMA) Ltd**

Case Officer:
[REDACTED]

**Recommendation:
PERMIT**

1. Proposals and Background

Planning permission is sought for a container storage area with containers stored up to 15 metres high (5 containers) together with rail terminal lighting columns at 25 metres high at Zone C (Rail Terminal), East Midlands Gateway Rail Freight Interchange, Castle Donington. The application site, to which the proposal forms part, lies to the east of Castle Donington, south of Lockington and Hemington, west of Kegworth and north of East Midlands Airport and is outside the defined Limits to Development. Zone C would be provided in the eastern area of the site in close proximity to the A453.

On the 12th January 2016 the Secretary of State for Transport granted a Development Consent Order (DCO) for The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (Statutory Instruments 2016 – No. 17), which comprised the following development as outlined in Schedule 1 of the DCO, and which consisted of three separate Nationally Significant Infrastructure Projects (NSIPs): -

- Part 1 – NSIP 1: The Construction of a Rail Freight Interchange;
- Part 2 – NSIP 2: The Construction of a New Highway;
- Part 3 – NSIP 3: The Alterations of Existing Highways;
- Part 4 – Associated Development.

In more detail these works comprised the following:

- Provision of up to 557,414 square metres of rail-served warehousing and ancillary service buildings;
- An intermodal freight terminal accommodating up to 16 trains per day each way of up to 775 metres in length and which will include container storage and HGV parking;
- A new rail line connecting the terminal to the Castle Donington freight only branch line;
- Substantial improvements to Junctions 24 and 24A on the M1;
- A southern bypass of Kegworth to the east of the M1;
- Other new roads and alterations to existing road infrastructure;
- A bus interchange;
- Alterations to public rights of way;
- Demolition of existing structures and structural earthworks to create development plots and landscape zones; and
- Strategic landscaping and open space, including the creation of new publically accessible open areas.

As part of the consideration of the DCO application a Parameters Plan was submitted which outlined

within the rail terminal area (Zone C) that the lighting columns would be at heights of 15 metres and the containers would be stored to a height of 10 metres (totalling 3 containers). This application seeks to provide the lighting columns to heights of 25 metres as well as containers being stored to a height of 15 metres (totalling 5 containers), in the south-eastern part of the rail terminal, and as such breaches the dimensions set by the Parameters Plan approved as part of the DCO. On the basis that the height of the lighting columns and container storage height would not accord with the terms of the DCO a separate planning application has been submitted for consideration by the Local Planning Authority. All other aspects of the rail terminal within Zone C would be provided in accordance with the DCO.

A landscape and visual appraisal has been submitted in support of the application.

All relevant documentation, including the plans, can be viewed on the District Council's website.

The relevant planning history associated within Zone C is as follows:

- 18/01527/FULM – Container storage area with containers stored up to 15 metres high (5 containers) together with rail terminal lighting columns at 26 metres high – Approved 16th October 2018.
- 19/00779/FULM – Erection of rail terminal building (use class B1) with associated access, parking, service and yard areas and landscaping – Approved 19th August 2019.
- 22/00771/FUL – Additional service yard for vehicle movements and HGV parking – Approved 8 July 2022.

2. Publicity

No neighbours have been notified.

A site notice was displayed on the 10 June 2022.

A press notice was published in the Derby Evening Telegraph on the 15 June 2022.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

Comments from:

Councillor Sewell who has commented that: *“As Ward Member for Daleacre Hill, which includes the north of Kegworth, I would like to add that I agree with all the points made by Kegworth Parish Council. With regard to the noise issue: there have been complaints already from near neighbours in Kegworth as the PC mentions. This proposal will only increase noise problems, and movements take place 24/7, and I would request mitigation for adequate screening, and consideration given to any light pollution which would occur – i.e. shielding lights, ensuring they point away from properties, etc.”*

Lockington cum Hemington Parish Council who have commented that: *“We have no material objection to this proposal. However the increase in planned containers (5 high vs 3 high from initial DCO approval) and associated increased risk of further HGVs movements through local villages should be mitigated through action to improve the road signage in the area. This has already been investigated by LCC Highways and Highways England but has not yet been implemented. This should be agreed as a condition of approval.”*

Objections from:

Long Whatton and Diseworth Parish Council who have stated that: *“As the site appears to be outside the LWDC boundary, Kegworth Parish Council have already responded, and their objections seem well founded, we should support this response.”*

Kegworth Parish Council who have stated that:

“1) As is stated in section 1.2 of the Landscape and visual appraisal document (1) some parts of the proposed works lies outside Zone C and is thus outside the development permitted by the DCO. Whilst the document considers this as “not material” we are of the opinion that the development as a whole has significant impact on the amenity of Kegworth and there is an established ongoing pattern of permitting the limits and boundaries of the DCO to be exceeded. This is not acceptable.

2) As confirmed in section 1.1 of (1) the proposed containing stack height significantly exceeds the maximum height permitted by the DCO. The argument that is made is this should be allowed because the DCO limits were exceeded in the existing container yard. This is a further example of continuous exceedance of the DCO parameter on which the whole scheme was originally approved.

3) The higher container stack and lighting columns proposed will be visible from and will cause additional loss of visual amenity and light pollution to properties on the current boundary and the M1 already has approvals for residential development. These properties will be significantly closer to this site than existing properties and no consideration of this impact seems to have been made and we feel this is a material oversight that needs to be properly evaluated.

4) There is a history of complaints from residents on the closest boundary of Kegworth relating to obtrusive noise from container movements. Lifting and placing containers causes single, but significant, discrete noise events that are intrusive above the normal background noise of the highways. This site is closer to housing than the existing container yard and a stack increase (3 to 5 high) implies up to 67% more container capacity and therefore potentially 67% more container movements and 67% more intrusive noise events. There has been no consideration of environmental noise impact. We feel this should be an essential part of this planning process.

5) In the summary of conclusions we have at 4.19 in the statement (1) “...it is evident from a preliminary appraisal that in its current condition, the landscape value of the site is Low.” The site prior to this development was good quality agricultural land with field trees hedges etc. It had high visual amenity value. The argument that the development has degraded and destroyed the visual amenity of the site already, to such an extent that it is acceptable to continue further on that trajectory, is quite a sad statement. Good planning and design should always aim to minimise impact and we object to increasing impacts above what was originally approved in the DCO.”

No Objections from:

Castle Donington Parish Council.
Leicestershire County Council – Ecology.
Leicestershire County Council – Highways Authority.
National Highways.
Rushcliffe Borough Council.

No Objections, subject to conditions and/or informatives, from:

East Midlands Airport Safeguarding.
Leicestershire County Council – Lead Local Flood Authority.

Third Party Representations

Seven third party representations have been received objecting to the application with the comments raised summarised as follows:

- The increased in the height of stacked containers and lighting columns impact adversely on the surrounding residential areas.
- The existing bunds at the northern end of the site do not offer adequate screening of the Maritime offices and is the area where trucks are loaded with containers.

- More should be done to visually screen the development given the existing visibility of the containers.
- Noise from the operations undertaken at the rail terminal impact on the residential amenities of properties on Pritchard Drive, Windmill Way and certain parts of Ashby Road and such noise is not screened by trees and the terminal operates on a 24 hour basis.
- The noise associated with the rail terminal is materially different to that generated by the M1 and East Midlands Airport given the nature of the operation undertaken at the rail terminal.
- The lighting already associated with the site results in detriment to residential amenity and the proposal will increase this impact.
- Containers are already stacked on the site to 5 containers high so there is already a breach of the rules.
- The setting of Kegworth has been altered by the industrial development undertaken.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development);
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
 Paragraphs 55 and 56 (Planning conditions and obligations);
 Paragraphs 81, 83 and 84 (Building a strong, competitive economy);
 Paragraphs 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport);
 Paragraphs 119, 120 and 124 (Making effective use of land);
 Paragraphs 126, 128, 130, 132 and 134 (Achieving well-designed places);
 Paragraphs 152, 154, 157 and 167 (Meeting the challenge of climate change, flooding and coastal change); and
 Paragraphs 174, 180, 183, 184, 185, 186 and 187 (Conserving and enhancing the natural environment);
 Paragraphs 189, 194, 195, 197, 199, 200, 202, 203 and 205 (Conserving and enhancing the historic environment).

Local Policies

Adopted North West Leicestershire Local Plan (2021)

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 – Future Housing and Economic Development Needs;
 Policy S2 – Settlement Hierarchy;
 Policy S3 – Countryside;
 Policy D1 – Design of New Development;
 Policy D2 – Amenity;
 Policy Ec1 – Employment Provision: Permissions;
 Policy Ec5 – East Midlands Airport: Safeguarding;
 Policy IF4 – Transport Infrastructure and New Development;
 Policy IF7 – Parking Provision and New Development;
 Policy En1 – Nature Conservation;
 Policy En6 – Land and Air Quality;
 Policy He1 – Conservation and Enhancement of North West Leicestershire’s Historic Environment;
 Policy Cc2 – Water – Flood Risk; and
 Policy Cc3 – Water – Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance.

Good Design for North West Leicestershire Supplementary Planning Document – April 2017.
Leicestershire Highways Design Guide (Leicestershire County Council).
Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 66 and 72.
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
National Networks National Policy Statement – December 2014.
The Logistics Growth Review – November 2011.
Local Transport Plan (Leicestershire County Council) – April 2011.
The Community Infrastructure Levy Regulations.

5. Assessment

Principle of the Development

In accordance with the provision of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, comprises the adopted North West Leicestershire Local Plan (2021).

Paragraph 174 of the NPPF (2021) highlights the need to recognise the intrinsic character and beauty of the countryside but does not specifically preclude development within the countryside.

The application site lies outside of the defined Limits to Development, and therefore the proposal would be subject to Policy S3 (Countryside) of the adopted Local Plan. Policy S3 outlines, under criterion (i), that the expansion of all types of business and enterprise in rural areas will be supported, although such support is subject to compliance with criteria (i) to (vi) of Policy S3.

The East Midlands Gateway (EMG) is also recognised under Policy Ec1 of the adopted Local Plan as a site where permission for employment exists and where there would be support for the renewal of any permission should it have lapsed (which is not the case in this instance as the site has been effectively built out).

The Parameters Plan granted under the Development Consent Order (DCO) identified the extent of the rail terminal as Zone C and, as is outlined in the *'Proposals and Background'* section of this report above, this application seeks to increase the stacked height of the containers to 15 metres (5 containers) (DCO consented 10 metres (3 containers)) and provide lighting columns of 25 metres in height (DCO consented 15 metres) in the south-eastern part of the rail terminal.

For the avoidance of doubt this application does not seek to increase the area associated with the rail terminal, with the land on which the application relates forming part of the rail terminal as approved by the DCO, and therefore the delivery of the rail terminal (including any buildings, car parking and boundary treatments) would be undertaken in accordance with the terms of the DCO and its relevant Requirements (which are in effect the planning conditions of the DCO).

In terms of the consultation response provided by Kegworth Parish Council (and in particular point (1) as outlined in the *'Summary of Consultations and Representations Received'* section of this report above) an application to slightly extend the area associated with the rail terminal (being an area of 2,200 square metres) was considered and approved under application reference 22/00771/FUL.

On the above basis it is considered that the main matter for consideration relates to whether the increase in height of the lighting columns and the height to which storage containers would be stacked in the south-eastern part of the rail terminal would have an adverse visual impact on the landscape and whether any greater implications to residential amenity, highway safety, airport safeguarding, ecology and drainage and flood risk would arise.

It is noted that planning permission has previously been granted for storage containers to be stacked to heights of 15 metres and the provision of lighting columns at 25 metres in height in the western and central parts of the rail terminal under application reference 18/01527/FULM.

In terms of an assessment against criteria (i) to (vi) of Policy S3 this would be as follows:

- (i) *The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced.*

An assessment of the visual impacts of the consented development on the landscape was undertaken by the Examining Authority (ExA) who provided a recommendation to the Secretary of State for Transport on the SRFI. The ExA concluded the following: -

“Although of a significant size and scale, the built development within the SRFI site would largely be screened from external views due to the landform changes and the mounding with associated landscape planting. In their joint LIR, LCC and NWLDC consider that it would be inevitable that development of this scale would give rise to a significant landscape and visual impact at the local level. This would particularly be the case until the proposed landscaping had matured, and it would then assist in screening the majority of the built development.

There also would be substantial areas of grassland pasture and open space both preserved and created. Several of the photomontages show how prominent the existing two main areas of woodland at The Dumps and King Street Plantation are, and therefore their retention as proposed, coupled with significant additional planting, are important elements of mitigation. When set in the context of the major built landscape development in the locality we do not consider that the wider landscape impacts would be significantly detrimental. We therefore concur with the conclusions in the ES on this matter.”

A revised Landscape and Visual Appraisal (LVA) has been submitted in support of this application and this has concluded the following: -

“The proposed increase to the consented height for the stored containers and the proposed height of the lighting columns reflects the respective heights for these features within the existing operational part of the Rail Terminal. In this regard, the proposed changes do not increase the heights beyond those already approved and existing for the operational part of the Rail Terminal. (Paragraph 6.2 of the LVA)

The LVA has appraised the proposed heights for these features within the Rail Terminal plot (Zone C) in relation to both the existing landscape and also in relation to the assessed landscape and visual effects for the development as detailed in the EMG SRFI Environmental Statement (ES). As detailed in this ES, the overall EMG development will result in some significant landscape and visual effects, including direct effects upon the Site landscape and upon some views from surrounding settlements and other receptors. (Paragraph 6.3)

The proposed height for the stored containers and lighting columns within the Site (the south eastern part of the Rail Terminal (Zone C)) will extend the influence of these elements over parts of the immediately surrounding landscape yet this will not be to any notable or significant extent. The extent of the this change in landscape and visual terms will be limited and localised and would not give rise to any changes to the overall level of landscape and visual effects, as originally assessed and detailed within the ES for the consented EMG SRFI. (Paragraph 6.4)

The visually contained nature of the Site; its position alongside the existing operational Rail Terminal; and the comparable heights of the existing stored containers and lighting columns on the existing terminal are all matters that have informed the assessment. (Paragraph 6.5)

With the exception of the immediate surrounds to the Site and the Rail Terminal, clear views towards the stored containers will be limited and where visible will be seen in the context of the stored

containers across the existing operational part of the terminal, at also up to 15m high. Relatively clear views will be possible from a short elevated stretch of the A453 immediately to the south-east of the Site; from the EMG internal access road; and from a public right of way (PROW) (diverted as part of the EMG development) that crosses part of the wider EMG site. For users of these routes, existing views are dominated by the EMG development and other major road infrastructure. The proposed changes will not alter the general nature of these close views towards the Rail Terminal albeit that the increased height will increase the 'presence' of the containers and the lighting columns in the views to a limited and localised extent. (Paragraph 6.6)

The lighting columns will be potentially visible from other more distant visual receptors to the north and east of the Site yet at these distances and given the immediate context and backdrop to the views (including the existing Terminal and other road lighting columns and the existing EMG buildings) the proposed lighting columns will not result in any more than limited visual change to any more distant views. (Paragraph 6.7)

Overall, the proposed increase to the height for the stored containers and the proposed height of the lighting columns within the Site will result in no notable or significant landscape or visual effects in comparison to the consented height parameters for the Rail Terminal (Zone C) at EMG. The proposed changes will be limited and localised in overall landscape and visual terms." (Paragraph 6.8)

The section drawings submitted in support of the application demonstrate that the finished floor level within the rail terminal, including the south-eastern part relative to this application, is 43.10 metres above ordnance datum (AOD) and that the height of the bund (not including the landscaping) at the eastern boundary of the site (adjacent to the A453) is 58.85 metres AOD.

Taking this into account, the increased height of the stacked containers (to 15 metres) would put them at a level of 58.10 metres AOD (i.e. 0.75 metres below the height of the bund) with the height of the lighting columns being at 68.10 metres above AOD (i.e. 9.25 metres above the height of the bund).

As consented gantry cranes could also be provided within the rail terminal which, if provided, would have overall heights of 63.10 metres AOD (i.e. 4.25 metres above the height of the bund and based on their DCO consented height of 20 metres).

Furthermore the land to immediate west of the rail terminal comprises an intermodal area (which on the basis of the approved DCO Parameters Plan could be utilised for container storage, parking area and associated welfare facilities) and which has a consented plateau level of 58.40 metres AOD. Any building or storage containers placed on the intermodal area could have a maximum height of 10 metres with lighting columns to heights of 15 metres. Taking this into account any building or storage container would have an overall height of 68.40 metres AOD (i.e. 9.55 metres above the height of the bund) with the height of lighting columns being 73.40 metres AOD (i.e. 14.55 metres above the height of the bund).

It is clear from the assessment undertaken by the ExA that the perimeter mounding and soft landscaping would assist in mitigating the visual impacts of the development on the landscape, but it ultimately would take time for such soft landscaping to mature to a level where the visual impacts would be appropriately mitigated.

In terms of the increased height to the storage containers in the south-eastern part of the rail terminal it is noted that such an increase would match that established as acceptable in the western and central part of the rail terminal as permitted under application reference 18/01527/FULM. It is also demonstrated by the information submitted that, based on the finished ground level, such storage containers would not exceed the height of the bund (without landscaping) to the eastern site boundary. The conclusions of the LVA are therefore considered to be reasonable in outlining the

limited areas where clear views of the increased height of the storage containers in the south-eastern part of the rail terminal would be visible from.

With regards to the lighting columns it is acknowledged that they would exceed the height of the bund but taking into account the overall height that mature landscaping to the bund could achieve, being in the region of 10 metres, as well as the slimline nature of such columns it is considered that they would not have a profound impact on the landscape, with such an impact reducing over time.

This is considered to be the case given that such lighting columns would match the height of lighting columns in the western and central part of the rail terminal (as permitted under application reference 18/01527/FULM) and would be viewed in the context of their relationship with the extensive range of lighting columns on the strategic highway network, particularly those around the roundabout at Junction 24 of the M1, and where such lighting columns would be of similar (if not greater) overall height taking into account they are at a higher land level.

It is also considered that the impacts to the landscape should be balanced with the fact that the buildings constructed as part of the EMG remain the most dominant visual form on the site. There is also the potential for storage containers and lighting columns to be provided in the intermodal area, in accordance with the DCO, which would have heights AOD which are significantly greater than those in the rail terminal (as outlined above) and consequently would have a greater influence on the landscape.

The contents of the representations received from third parties, the Ward Member and Parish Councils are noted but it is considered that the containers which are visible within the rail terminal are at its northern end where the landscaped bund has a lower height adjacent to the roundabout of Junction 24 of the M1 and the A453 connecting arm. This is considered to be the case given that on the eastern boundary of the M1 a mound exists, between the south-eastern part of the rail terminal and properties on Ashby Road/Windmill Way, which ranges in height from 68 metres AOD (including the vegetation on the mound) down to 58.48 metres AOD (including the vegetation on the mound). Given the overall height of the stacked containers in the south-eastern part of the rail terminal would be 58.10 metres AOD it is considered that the additional screening provided by vegetation to the boundary of the M1 would further serve to mitigate the visual impacts of the stacked containers in the south-eastern part of the rail terminal. It is noted that such mounding, and landscaping, to the eastern boundary of the M1 diminishes to the north, on the approach to the Junction 24 roundabout, which consequently 'opens up' views towards the northern end of the rail terminal from properties on Ashby Road and Windmill Way.

Overall, it is considered that the proposed development would have no greater visual influence on the appearance and character of the landscape than the existing development already undertaken on the EMG site, as well as any future consented development on the site in accordance with the DCO (i.e. in the Intermodal Area). On this basis the appearance and character of the landscape would be safeguarded, and any refusal of the application based on conflict with criterion (i) of Policy S3 could not be substantiated.

- (ii) *It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements, either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries; and*
- (iii) *It does not create or exacerbate ribbon development.*

The proposed development would be situated within the confines of the EMG site and as such would not undermine the physical or perceived separation between settlements, nor would it create or exacerbate ribbon development.

On this basis the proposal would be compliant with criteria (ii) and (iii).

- (iv) *Built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate.*

Without the application containers stacked to a height of 10 metres and lighting columns to a height of 15 metres could be provided in the south-eastern part of the rail terminal. This application simply seeks to increase the height of stacked containers to 15 metres and lighting columns to 25 metres. All other physical works associated with the establishment of the south-eastern part of the rail terminal would be undertaken in accordance with the DCO.

It is considered that the proposed works would be intrinsically linked with the existing development undertaken at the rail terminal in Zone C and as such would be visually read, from inside and outside of the EMG site, in connection with the rail terminal. On this basis the development would be well integrated with existing development (with it being possible for such development to be undertaken to a smaller scale without this application in any event) and as such compliant with criterion (iv).

- (v) *The development will not seriously undermine the vitality and viability of existing town and local centres.*

Given the nature of the proposed development there would be no conflict with this criterion.

- (vi) *The proposed development is accessible, or will be made accessible, by a range of sustainable transport.*

As part of the approval of the DCO a public transport strategy was secured with a regular bus service now serving the site. Pedestrian and cycle links were also provided to the settlements around the EMG site. On this basis the development is accessible by a range of sustainable transport, albeit it is noted that the proposal only seeks to increase the stacked height of containers and height of lighting columns which would not materially result in any significant increase in vehicular activity at the site.

Notwithstanding this fact the proposal is considered compliant with criterion (vi) given that the rail terminal, and wider EMG site, is accessible by sustainable forms of transport.

Overall Conclusion in Relation to Policy S3

In principle the development is an acceptable form of development outside the defined Limits to Development given its compliance with criterion (i) relating to the expansion of existing businesses.

On the basis of the above assessment, no conflict with criteria (ii) to (vi) of Policy S3 would arise as a result of the development with it being considered that the character and appearance of the landscape would be safeguarded, thereby ensuring compliance with criterion (i). Consequently the proposed development would be considered acceptable and compliant with Policy S3.

Design

The need for good design in new development is outlined not only in adopted Local Plan Policy D1, as well as the Council's adopted Good Design for NWLDC SPD, but also Paragraphs 126 and 130 of the NPPF.

The proposed lighting columns (a total of 16 columns) are of a design that would be consistent with lighting columns permitted within the wider East Midlands Gateway (EMG), as well as those that exist to the highways within the immediate area. It is also considered that any storage containers to be stacked would be of a simplistic design.

Taking into account the consistency of the lighting columns with other columns in the confines of the

EMG, as well as those within the immediate area, it is considered that the design of the development would be acceptable.

On this basis the proposal would not conflict with Policy D1 of the adopted Local Plan or Paragraphs 126 and 130 of the NPPF.

Historic Environment

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, as well as a Conservation Area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess and to the desirability of preserving or enhancing the character or appearance of that area. Such an approach is also supported by Paragraphs 197, 199, 200, 202 and 206 of the NPPF.

In terms of heritage assets the information submitted in support of the DCO application identified that there were 402 listed buildings within a five kilometre radius of the site, including those within the settlements of Castle Donington, Hemington, Lockington and Kegworth, with the most notable being the Grade I listed St Nicholas' Church in Lockington and the Grade II listed The Nunnery in Hemington. The Conservation Areas of Castle Donington, Hemington and Lockington also exist within the vicinity of the site. Therefore the impact of the development on the fabric and setting of these heritage assets was given special regard as required by the 1990 Act.

In concluding on the impacts of the development on heritage assets the ExA stated the following: -

“Overall, we consider that the proposed development would not give rise to substantial harm to the setting of the conservation areas or listed buildings that lie within the vicinity of the application site for the following reasons:

- *A substantial amount of mitigation is proposed through the creation of development plateaus that are generally at a lower level than the surrounding areas, with associated landscape planting and earthwork bunds; this would largely screen any views of the proposed development from the nearby settlements;*
- *The nearest of any of the proposed warehouse buildings would be some distance from the boundaries of the Lockington, Hemington and Castle Donington Conservation Areas; we consider that these distances, combined with the proposed landform changes and landscape planting would be sufficient to ensure that any impacts on the settings of the Castle Donington, Hemington or Lockington Conservation Areas or the setting of any listed buildings within any of these or other nearby settlements, would not be significantly detrimental; and*
- *The Castle Donington Conservation Area (CDCA) is primarily within the central part of the settlement, and as such there is already other built development located between the boundary of the conservation area and the proposed development; in our view, the existing built development around the CDCA would serve to mask views into and out of the CDCA with regard to the SRFI site.”*

As is concluded in the *‘Principle of Development’* section of this report above it is considered that the proposed increase in the height of the lighting columns and height at which the containers would be stacked in the south-eastern part of the rail terminal would not have a substantial visual impact on the character and appearance of the landscape given the visual relationship with existing development at the East Midlands Gateway (EMG).

On this basis it is considered that there would be no impact on the significance of the setting of heritage assets, over and above those previously deemed acceptable under the DCO, given the wider landscaping strategy for the site mitigating the visual effects of the proposal in the south-eastern part of the rail terminal, which lies at a substantially lower land level to that of the wider

development.

Given that in any views towards or from heritage assets the development would either not be visible, or viewed in the context of a relationship with existing development in and out of the confines of the EMG site, it is considered that no harm to the significance of the setting of heritage assets would arise. On the basis that no harm to the significance of the setting of heritage assets arises an assessment in the context of Paragraph 202 of the NPPF is not required.

Overall the development would accord with Policy He1 of the adopted Local Plan, Paragraphs 197, 199, 200, 202 and 206 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Residential Amenities

The nearest residential receptors to the application site are those on Ashby Road and Windmill Way, Kegworth, set around 316 metres to the east, and Church Street, Lockington situated around 628 metres to the north-west.

It is considered that the granting of the DCO has established that the overall development would have an acceptable impact on the amenities of neighbouring residents which includes the lighting columns and stacked height of storage containers within the rail terminal area (Zone C), as permitted.

As proposed the stacked height of the containers would increase by 5 metres and the lighting columns by 10 metres in the south-eastern part of the rail terminal. Such a change would result in the stacked height of the containers and lighting columns matching those in the western and central parts of the rail terminal as approved under application reference 18/01527/FULM.

Taking into account the separation distance to the nearest residential receptors, as well as the nature of the development, it is considered that no adverse overshadowing, overbearing or overlooking impacts would arise.

The right to or the loss of a view is not a material planning consideration so whilst the stacked containers and lighting columns may be visible from residential receptors, with it being considered that such views are of those containers in the northern part of the rail terminal rather than any which would be within the application site, this impact could not justify a refusal of the application.

In terms of the impacts of lighting it is acknowledged that until the landscaping infrastructure on the EMG site has matured the proposed lighting columns in the south-eastern part of the rail terminal would be visible above the bund to the eastern site boundary. However, the impact of such lighting is not considered to be of any greater significance to the amenities of residential properties than the lighting previously assessed to be acceptable in the western and central parts of the rail terminal (as consented under 18/01527/FULM) or the lighting on the highway network (comprising the A50, A453 and M1). Such lighting on the A453 and M1 is closer to the residential receptors in Kegworth than that at the EMG and where lighting is significantly clustered around Junction 24 of the M1 and the roundabout junction into the EMG site off the A453.

Such lighting on the highway network also has a similar height level to that of the lighting in the south-eastern part of the rail terminal, if not a greater height, given that such highways have higher ground levels than those within the south-eastern part of the rail terminal. For example, the submitted plans indicate that the M1 has a level of 53.10 metres above ordnance datum (AOD) (and rises to the east) which would be 10 metres higher than the ground level in the rail terminal (43.10 metres AOD). On this basis the proposed height of the lighting columns in the south-eastern part of the rail terminal would not be out of scale with existing lighting sources.

It is also discussed in the '*Highway Safety*' and '*East Midlands Airport Safeguarding*' sections of this report below that the proposed lighting would need to be shielded so as to not cause any adverse

impacts to highway and aviation safety. It is considered that the imposition of a condition controlling this would ensure that such lighting would not impact on the amenities of residents to an extent that a reason to refuse the application could be justified, particularly taking into account the separation distances and existing lighting sources. It is also the case that no representation has been received from the Council's Environmental Protection Team objecting to the application in this respect.

The representations received have also commented on the noise generated by operations at the rail terminal and it is again the case that no representation has been received from the Council's Environmental Protection Team objecting to the application in this respect.

It is outlined in the '*Principle of Development*' section of this report above that this application would not increase the area associated with the rail terminal, and consequently with or without this application it would be possible for the operations of the rail terminal to be extended into its south-eastern part. The Development Consent Order (DCO) granted for the East Midlands Gateway (EMG) included a Requirement (no. 22) (in effect the planning conditions of the DCO) which requires a written scheme of the monitoring of noise (including a maximum level to be observed) to be submitted for approval prior to operation and this condition covers the noise generated by the units themselves as well as the rail terminal.

Requirement 22 has previously been discharged for the currently operational rail terminal and in expanding into the south-eastern part of the rail terminal the applicant would need to submit a revised scheme to comply with Requirement 22. It is considered that the impacts of noise, including the movement of stacked containers, would be controlled by the terms of Requirement 22 of the DCO which the applicant would be required to comply with prior to the operation of the south-eastern part of the rail terminal. Therefore no specific condition would need to be imposed on any permission to be granted given the nature of the planning application submitted.

The representations received have also commented on the relationship the EMG has with the housing developments permitted to the west of Kegworth (namely 12/00323/OUTM and 16/00394/REMM (land adjoining 90 Ashby Road) and 14/00541/OUTM, 19/00878/REMM and 19/01757/REMM (site adjacent to computer centre, Junction 24/Derby Road)), and which are currently blighted by the safeguarded route of HS2.

It is the case, however, that in approving the DCO the Planning Inspectorate (as well as the Secretary of State for Transport) took into account the relationship between EMG and such housing sites given that extant outline consents existed for these developments prior to the DCO being approved. Their conclusions were that any noise impacts would be negligible, taking into account the noise environment created by the M1 motorway (including Junction 24), the A50 and A453 trunk roads and East Midlands Airport (EMA). It remains the case that both the M1 and A453 lie between EMG and the residential development consented to the western side of Kegworth, with such housing developments being specifically designed so as to not have development within a certain distance of the M1. On the basis that the extent of the area of the south-eastern part of the rail terminal is not increasing it is considered that the levels of operational noise would not be any more significant than those previously assessed to be acceptable when the DCO was granted, and which would be appropriately controlled by the terms of Requirement 22 of the DCO.

The DCO is also subject to a Requirement (no. 23) which deals with the monitoring of noise complaints should they be justified. Whilst acknowledging that the Parish Council and Ward Member have received complaints from residents in respect of the noise generated by the rail terminal no such complaints have been directed to the District Council to determine if they would be justified in the context of Requirement 23 of the DCO. It is also unclear whether such complaints have been directed to the District Council's Environmental Protection Team and investigated as statutory noise complaints under separate legislation. If such noise complaints were justified then the applicant would be required to undertake works which would potentially mitigate such noise impacts. This, however, would be based on whether it is demonstrated that the operational noise levels as approved

under Requirement 22 of the DCO have been exceeded in the rail terminal or not.

Overall it is considered that subject to the imposition of condition requiring the development to be undertaken in accordance with the information as submitted, the impact to residential amenities would not be of such detriment that a reason to refuse the application could be substantiated particularly when the development would match that previously assessed to be acceptable in the central and western parts of the rail terminal (as consented under 18/01527/FULM). On this basis the proposal would be in accordance with the aims and intentions of Policy D2 of the adopted Local Plan and Paragraph 185 of the NPPF.

Highway Safety

The impacts of the entire development on the highway network were assessed by the ExA in their consideration of the DCO and where no significant concerns were raised subject to the relevant road improvements being carried out as part of the development.

It is considered that the containers being stored at a height of 5 metres greater than that allowed by the DCO would have no implications to highway safety given that they would only be readily visible on certain parts of the wider highway network given the finished ground level in the south-eastern part of the rail terminal, when compared with that of the wider highway network, and the maturing of the soft landscaping infrastructure to the bunds over time. The height of the containers would also match those allowed in the western and central parts of the rail terminal, as permitted under application reference 18/01527/FULM, and which have not proven to result in an unacceptable impact on highway safety.

The increase in the height of the lighting columns would also be reflective of the consented height in the western and central parts of the rail terminal with lighting columns being common place on the wider highway network, particularly around the M1 junction 24 roundabout and the entrance to the East Midlands Gateway (EMG) site. Therefore the provision of the columns themselves would not compromise highway safety.

In terms of the lighting element of the columns, both the County Highways Authority (CHA) and National Highways (NH) have raised no objections in relation to the lighting elements of the columns or any impact on the highway network as a result of the proposal. In the consideration of application reference 18/01527/FULM a condition was imposed, at the request of NH, to ensure that the lighting was shielded so as to not compromise the safety of road users. Whilst NH have not suggested such a condition in connection with this particular application, it is considered that for the purposes of consistency such a condition should be imposed.

Although noting the representation received from Lockington cum Hemington Parish Council it is not considered by the CHA or HE that the proposal would generate an increase in vehicular movements to and from the site given the nature of the application. Consequently the imposition of a condition requesting additional signage for the direction of heavy goods vehicles (HGVs) to the site would be unreasonable and unnecessary thereby failing the tests for conditions as outlined Paragraph 56 of the NPPF. In any event the improvement to the road signage would be a matter to be controlled and addressed by the CHA and HE as the highway undertakers rather than the applicant.

Overall the proposal would be considered compliant with Policy IF4 of the adopted Local Plan and Paragraphs 110 and 111 of the NPPF.

Ecology

In the assessment of the Development Consent Order (DCO) the ExA concluded that no adverse impacts would arise in relation to the impacts of the development on ecological species and as part of the consideration of this application the County Council Ecologist has no objections given the proximity of the site to the road and other lit sites. On this basis the proposal would accord with Policy En1 of the adopted Local Plan as well as Paragraph 174 of the NPPF and Circular 06/05.

Landscaping

Requirement 8 of the Development Consent Order (DCO) requires the submission of landscaping and ecological mitigation details and in respect of the south-eastern part of the rail terminal details of the landscaping have been agreed separately in accordance with Requirement 8 of the DCO. Given the limited extent of land associated with the south-eastern part of the rail terminal such a landscaping scheme has comprised a hard landscaping scheme with it being outlined in the 'Ecology' section of this report above that there is no requirement for ecological mitigation.

Soft landscaping associated with the screening of the development in the rail terminal is secured outside the zone of the rail terminal (being Zone C) and has been approved under Requirement 8 for the areas on the approved parameters plan identified as "*Landscape open space including landscape screen bunding.*" Planting has been provided to the bunding around the site, but it has to be accepted that such landscaping will require time to mature in order to suitably mitigate the visual impacts of the overall development undertaken at the East Midlands Gateway (EMG).

It is noted that the representations received have indicated that the existing screening is inadequate, given that the lighting columns and stacked containers remain visible in views from properties on the western side of Kegworth. Following a site visit it is accepted that the lighting columns in the south-eastern part of the rail terminal may be marginally visible but given the overall height of the stacked containers in the south-eastern part of the rail terminal, when compared with the overall height of the bund to the eastern boundary (without any landscaping mitigation), it is considered that they would not be readily visible (if visible at all).

Notwithstanding such an assessment it is acknowledged that stacked containers in the northern part of the rail terminal are visible to properties on the western side of Kegworth.

Although the lighting columns may be marginally visible, such lighting columns are visually assessed with the substantial number of lighting columns on the immediate highway network as well as those within the EMG. Taking this into account, as well as accounting for the slimline nature of the columns, it is considered that the requirement for a specific landscaping scheme to mitigate the visual impacts of the lighting columns would not be necessary to make the development acceptable. Such a condition would also be unreasonable in the circumstance that no such condition was imposed on the planning permission granted in the western and central part of the rail terminal, under application reference 18/01527/FULM, which proposed the same development and where the lighting columns in the central part would be more visible than those in the south-eastern part. It is also the case that the County Highways Authority (CHA) and National Highways (NH) are not required to specifically mitigate the visual impacts of the lighting columns on the immediate highway network despite such lighting columns being present in greater numbers and clusters than those at the EMG.

For the reasons as outlined above, it is also considered that a specific landscaping scheme is not required to mitigate the visual impact of the stacked containers in the south-eastern part of the rail terminal given their lack of visibility to residential receptors. Notwithstanding this a separate discussion would be had with the applicant in relation to improvements which could be undertaken to the part of the landscape bund adjacent to the northern part of the rail terminal so as to provide additional screening of the stacked containers. This would be a matter to be pursued separately under the DCO rather than being specific to the merits of this proposed development.

Overall the landscaping secured and to be delivered under the terms of Requirement 8 of the DCO in the south-eastern part of the rail terminal would be acceptable and the proposal would accord with Policies D1 and En1 of the adopted Local Plan.

East Midlands Airport Safeguarding

It was concluded by the ExA in their assessment of the DCO that "*the effects of the proposed development on civil aviation have been properly assessed in line with paragraph 5.59 of the*

NSPNN. The applicant and EMA have agreed that the protection of the airport authority is appropriately secured in the draft DCO...We conclude therefore that the proposed development would not significantly impede or compromise the safe operation of the EMA, in compliance with paragraph 5.63 of the NPSNN." Relevant Requirements were then incorporated into the DCO to ensure that the finer details of the development were agreed with East Midlands Airport Safeguarding (EMAS).

Accordingly the matter for consideration as part of this application is whether the increase in the height of the lighting columns and stacked height of the storage containers would result in any greater implications to the safe operation of East Midlands Airport (EMA) over and above that permitted by the DCO, which allowed lighting columns of 15 metres in height and containers being stacked to 10 metres in height within the rail terminal area.

As part of the consideration of the application EMAS have been consulted and they have raised no objections subject to the imposition of a condition which would seek to ensure that the lighting columns are capped so as to prevent upward light spill. The imposition of such a condition would be reasonable and would be in line with the condition imposed as part of the permission granted under application reference 18/01527/FULM where the lighting columns were increased in height in the western and central parts of the rail terminal. A condition would also be imposed reflecting the requirements of Schedule 16 of the DCO which is associated with the protection of the airport operator.

Whilst EMAS has also requested that conditions be imposed in respect of the materials of construction of any buildings and that no solar panels are provided, it is noted that no buildings are proposed as part of the application and no solar panels would be installed. Consequently such conditions would be unreasonable and unnecessary and would fail the tests for conditions as outlined at Paragraph 56 of the NPPF.

A note to the applicant would be proposed to cover the issue of smoke and dust during the construction phase given that only the lighting columns would be 'constructed'. In any event it is also considered that this matter is addressed by Schedule 16 of the DCO.

On the basis of the above it is considered that the proposal would not impact adversely on the operational safety of the airport and as such the development would accord with Policy Ec5 of the adopted Local Plan.

Drainage and Flood Risk

The proposed development would be associated with the rail terminal which falls within Zone C of the Parameters Plan approved as part of the DCO. Zone C lies within Flood Zone 1, and is therefore at the lowest risk of flooding, and is also in an area which is at low risk of surface water flooding as defined by the Environment Agency's Surface Water Flood Maps.

As part of the consideration of the application the Lead Local Flood Authority (LLFA) have been consulted and they have outlined that their standing advice should be considered.

Surface water drainage matters within the south-eastern part of the rail terminal have been dealt with under Requirement 17 of the DCO and where a scheme has been approved. The increase in the height of the lighting columns and stacked height of containers would not prejudice the delivery of the approved surface water drainage scheme and consequently the proposed development would not exacerbate any localised surface water flood risk. In such circumstances the proposal would be compliant with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraph 167 of the NPPF.

No foul drainage is connected with the proposal and therefore it would accord with Paragraph 185 of the NPPF. Details of foul drainage associated with any buildings to be provided within this phase

would be agreed separately under Requirement 19 of the DCO.

Conclusion

The application site lies outside the Limits to Development but is considered to be an acceptable form of development, in principle, outside such limits given the compliance with criterion (i). It is also the case that the application site forms part of the East Midlands Gateway (EMG) which was approved under a Development Consent Order (DCO). On the basis of the above assessment the development would also be compliant with criteria (i) to (vi) of Policy S3 and therefore the development is acceptable in principle outside the defined Limits to Development. It is also considered that the increase in the height of the lighting columns and stacked height of the storage containers within the rail terminal, over and above the Parameters set by the DCO, would not lead to detriment to residential amenities, heritage assets, highway safety, ecology, landscaping or airport safeguarding, nor would the development further exacerbate any localised flooding impact with the design being acceptable. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the policies referred to above.

It is therefore recommended that the application be permitted.

RECOMMENDATION – PERMIT, subject to conditions;

1. The development shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The proposed development shall be carried out strictly in accordance with the following drawing numbers: -

- EMG-BWB-GEN-XX-SK-D-SK499 S8 Revision P02 (Phase 2 Rail Terminal Red Line Plan for Change to Parameters), received by the Local Authority on the 23rd May 2022;
- EMG-BWB-RGN-RT2a-DR-C-0602 S8 Revision P01 (Rail Terminal Phase 2 Finished Levels Sheet 2), received by the Local Authority on the 23rd May 2022;
- EMG-BWB-RGN-RT3a-DR-C-0603 S8 Revision P01 (Rail Terminal Phase 2 Finished Levels Sheet 3), received by the Local Authority on the 23rd May 2022;
- 22-110-1A (East Midlands Gateway Phase 2), received by the Local Authority on the 23rd May 2022;
- 22-110-2A (East Midlands Gateway Phase 2), received by the Local Authority on the 23rd May 2022; and
- 3252 L-51 Revision B (Landscape Cross Section B Figure 1), received by the Local Authority on the 23rd May 2022.

Unless otherwise required by another condition of this permission.

Reason: For the avoidance of doubt and to determine the scope of the permission.

3. The lighting to be installed within the rail terminal (Zone C), hereby permitted, shall be capped below the horizontal in order to prevent any upward light spill.

Reason: To ensure there would be no adverse effect upon flight safety as a result of the development and to accord with Schedule 16 of the DCO.

4. No lamps associated with the lighting columns within the rail terminal (Zone C), hereby permitted, shall be directly visible (or visible by reflection) to the M1 Motorway users.

Reason: To ensure that the M1 Motorway continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, in the interests of road safety, and to accord with Schedule 19 of the DCO.

5. The storage containers to be stored within the rail terminal (Zone C), as defined on drawing EMG-BWB-GEN-XX-SK-D-SK499 S8 Revision P02, received by the Local Authority on the 23rd May 2022, shall not exceed a height of 15 metres as measured from the ground level referenced on drawing number 3252 L-51 Revision B, received by the Local Authority on the 23rd May 2022.

Reason: In the interests of the preservation of visual amenities and to limit the impact on the wider environment.

6. Construction works associated with the provision of the lighting columns within the rail terminal, hereby permitted, must not take place other than between 07:30 and 19:00 hours on weekdays and 08:30 and 13:00 hours on Saturdays, excluding public holidays. The above applies unless alternative hours are first submitted to and agreed in writing by the Local Planning Authority. Outside the above periods the following works will be permitted:

- (a) Pre-planned construction works to highway or rail infrastructure requiring possessions where first notified to the Local Planning Authority and local residents;
- (b) Emergency works; and
- (c) Works which do not cause noise that is audible at the boundary of the Order Limits.

(2) Regardless of the above, no piling operations are to take place after 18:00 hours unless otherwise agreed in writing by the Local Planning Authority.

(3) Any emergency works carried out under sub-paragraph (b) must be notified to the Local Planning Authority within 72 hours of their commencement.

Reason: In the interests of the preservation of neighbouring residential and in order to accord with Requirement 20 of the DCO.

7. For normal daytime construction works, associated with the provision of the lighting columns within the rail terminal hereby permitted, carried out on weekdays, between 07:30 and 19:00 and on Saturdays between 08:00 and 13:00, the noise level measured at a noise sensitive receptor must not exceed $L_{eq\ 12\ hour}$ 65 dB(A) wherever practicable. Where this is not practicable prior approval under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(a) must be obtained. The sensitivity receptor used must be as defined in Document 5.2 (Environmental Statement) Chapter 9, Table 9.24 Figure B1 covering the East Midlands Gateway Rail Freight Interchange and Highways Order 2016, which was approved under the DCO granted by the Secretary of State for Transport on the 12th January 2016.

(2) An assessment of construction noise must be undertaken in accordance with British Standard 5228:2009 – “Code of Practice for Noise and vibration control on construction and open sites” (Part 1 – Noise) at a noise sensitive receptor. Noise levels must be measured weekly during the stages of construction including ground works, piling and road and rail construction stages unless complaints are received in which case the procedures in condition 21 must be followed.

(3) Subject to health and safety requirements, broadband reversing alarms must be employed on mobile plant.

Reason: In the interests of the preservation of neighbouring residential amenities and in order to accord with Requirement 21 of the DCO.

8. The ground level on which the lighting columns and storage containers will be positioned shall be in strict accordance with the levels shown on drawing number 3252 L-51 Revision B, received by the Local Authority on the 23rd May 2022. The above applies unless an alternative ground level is first submitted to and approved in writing by the Local Planning Authority. Any alternative ground level upon which the lighting columns and storage containers would be positioned shall than be provided in accordance with the details subsequently approved.

Reason: To ensure the development takes the form envisaged by the Local Planning Authority in the interests of the visual amenities of the landscape and in order to accord with Requirement 12 of the DCO.

9. The development, hereby permitted, must be carried out in accordance with the following so as to ensure the safety of the adjacent airport operator:

- (a) The management strategy for safeguarding East Midlands Airport which is contained in Document 6.12 of the DCO covering the East Midlands Gateway Rail Freight Interchange and Highway Order 2016, which was approved under the DCO granted by the Secretary of State for Transport on the 12th January 2016;

Reason: To ensure there would be no adverse effect upon flight safety as a result of the development in accordance with Schedule 16 of the DCO.

Notes to Applicant

1. Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. As of the 17th January 2018 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £116.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
3. The applicant's attention is drawn to the advice notes within the consultation response of East Midlands Airport Safeguarding of the 20th June 2022 (ref: 2022/091) which is available for viewing at the following link: [22/00867/FULM | Container storage area with containers stored at up to 15 metres high \(5 containers\) together with rail terminal lighting columns at up to 25 metres high | East Midlands Gateway Ashby Road Castle Donington \(nwleics.gov.uk\)](https://www.nwleics.gov.uk/22/00867/FULM).
4. The application site is located within the flight path of East Midlands Airport. In the interests of aviation safety and to prevent distraction and confusion to pilots caused by dust and smoke clouds, measures to minimise and manage the creation of dust and smoke should be implemented for the full duration of all construction works, including demolition and excavation, in accordance with the advice of East Midlands Airport and the Civil Aviation Authority.
5. The applicant's attention is drawn to the advice notes within the consultation response of Leicestershire County Council Lead Local Flood Authority (LLFA) of the 31st May 2022 (ref: 2022/0867/07/F) which is available for viewing at the following link: [22/00867/FULM | Container storage area with containers stored at up to 15 metres high \(5 containers\) together with rail terminal lighting columns at up to 25 metres high | East Midlands Gateway Ashby Road Castle Donington \(nwleics.gov.uk\)](https://www.nwleics.gov.uk/22/00867/FULM).

