Deadline 1: Written Representation submitted by National Highways Limited

Application by Segro Properties Ltd for an Order granting Development Consent for the Extension of Freeport, the second phase of East Midlands Gateway and East Midlands Gateway Rail Freight Interchange Material Change Order

Planning Inspectorate Reference Number: BC0410001/TR0510002

1. OVERVIEW

1.1 This Written Representation provides a summary of National Highways' (NH) outstanding matters in connection with an application by Segro Properties Ltd for development consent for the East Midlands Gateway 2 Project (Planning Inspectorate Reference: BC0410001) and for a Material Change Order for East Midlands Gateway Rail Freight Interchange (Planning Inspectorate Reference: TR0510002).

1.2 NH is the statutory body responsible for England's motorways and major A-roads (the strategic road network or "SRN"). NH supports the proposed development and highway mitigation works but currently **objects** to the proposed Development Consent Order (DCO). However, NH expresses willingness to engage constructively with the Applicant to resolve the outstanding matters, which it believes is achievable within the Examination period.

1.3 NH's Relevant Representation [RR-022] set out detailed comments on the proposed Application. This Written Representation develops those points and sets out NH's latest position as at Deadline 1.

1.4 This representation is submitted in accordance with Rule 10 of the Infrastructure Planning (Examination Procedure) Rules 2010 and the relevant guidance on written representations (Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects, MHCLG and DLUHC, 30 April 2024).

2. OUTSTANDING MATTERS TO BE RESOLVED

a. Transport Assessment/Modelling

All modelling relating to EMG2 is complete and acceptable to NH, demonstrating that the proposed SRN works are required and successfully mitigate the impacts of the development. The TA [APP-080 – 084] needs to be updated, and NH understands that the Applicant intends to submit an Appendix to the TA at Deadline 1. The separate assessment of the impacts of the MCO proposals have been received by NH and are under review. Based on an initial review, no adverse impact in terms of safety or capacity on the SRN is envisaged.

b. Construction Management

NH is satisfied with the changes made by the Applicants the CTMP [APP-074]. A draft CTWP was shared with NH on 19 March and comments were provided to the Applicant on 24 March.

c. DMRB Compliance

Two geometric departures remain under review by NH following minor adjustments to design. These are expected to be agreed shortly, after which five further departure requests will be submitted to NH relating to signage and signals. These need to be approved for NH to accept the proposed design.

d. Environmental Impact

Clarification from the Applicant on the technical details of the air quality assessment and regarding the specific Biodiversity Net Gain (BNG) implications for the SRN remain outstanding and are required to be resolved.

e. Compulsory Acquisition

Following the provision of the shapefiles by the Applicant, NH is reviewing the land parcels affected by EMG2, of which there may be as many as 231 in which NH has an interest (although NH acknowledges that the vast majority/potentially all of its land parcels are excluded from the scope of compulsory powers). The review is due to be completed after Easter, following which we will discuss any concerns with the Applicant. We will provide an update on the position at Deadline 2.

f. Draft DCO Articles

NH objects to numerous articles in the draft DCO that would authorise interference with NH's statutory powers or grant the Applicant powers over the SRN without adequate controls. Key objections are set out below but NH reserves its right to comment further following receipt of the Applicant's response to its Relevant Representation:

i) **Street Works (Article 8)**: NH objects to powers to break open streets (which includes the SRN) without proper coordination. These powers either need to expressly exclude the SRN or they need to be controlled by the Protective Provisions. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.

ii) **Power to alter layout, etc., of streets (Article 9)**: NH understands from Issue Specific Hearing 2 that the Applicant is preparing to amend this article (or the Explanatory Memorandum) to clarify that the power does not apply to the SRN.

iii) **Temporary stopping up of streets (Article 11)**: NH requires consent and road space booking for any temporary closures affecting the SRN. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.

iv) **Accesses (Article 13)**: No new or amended accesses from the SRN are permissible without a safety case being approved by NH. NH awaits clarity from the Applicant on temporary accesses at Deadline 1.

v) **Compulsory Acquisition (Article 22-23)**: NH objects to compulsory powers over its land, rights, subsoil, and airspace. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.

vi) **Temporary Use of Land (Articles 32-33):** NH objects to temporary possession powers without consent. NH's preferred protective provisions include reasonable and proportionate controls over the exercise of powers under this article.

(b) **Felling or lopping of trees and removal of hedgerows (Article 38):** NH objects to the breadth of these powers which may render it in breach of its environmental obligations. The powers should not apply to any part of NH's estate without NH's consent.

i) **Deemed Consent:** NH objects to the proposed deemed consent provisions. As previously set out, bypassing NH's approval process creates a risk to public safety, and where NH finds it requires further time, deemed consent provisions become counterproductive as NH may be forced to reject applications in order to avoid missing a deadline. However, in the interests of reaching an agreement with the Applicant, NH has confirmed to the Applicant that, noting the precedent agreed in the Northampton Gateway DCO, for which Segro was also the Applicant, NH will accept deemed consent provisions with 28 days' notice, a further written request, and 28 additional days' notice before deemed consent applies. NH has requested this change

as part of the protective provisions and hopes this can also be agreed for the DCO articles with deemed consent.

g. Requirements (Schedule 2)

Requirement 7: Detailed design approval: NH objects to the wording of this requirement. No amendments should be made to highway works design without agreement of NH.

Requirement 27: NH has agreed wording with the Applicant but now awaits comments from the Applicant and Local Highways Authority on enforceability. NH will review and provide its comments following receipt of the Deadline 1 submissions.

h. Protective Provisions

The protective provisions in the draft DCO are not agreed by NH. Discussions are ongoing with the Applicant's solicitors on matters of disagreement. These are set out in detail in NH's deadline 1 submission (NH's response to Written Questions and Actions). Briefly, the key issues between the parties are: Current guidance / standards, deemed consents/notice periods, exercise of DCO Powers, bond, commuted sum and insurance.

3. STATEMENT OF COMMON GROUND

3.1 NH provided its comments on the latest version of the SOCG on 24 and it is understood that an updated SOCG will be submitted by the Applicant at Deadline 1

National Highways Limited
7 April 2026