

Application by SEGRO Properties Limited for the East Midlands Gateway Phase 2 Development Consent Order – continuing uncertainties linked to Leicestershire County Council (LCC) responsibilities and the LCC RR.

Chat GPT Plus has been used in the compilation of this response. Views are my own

## 1. Introduction

This Written Representation flags up early key concerns arising from the RR submitted by Leicestershire County Council (LCC), with particular focus on matters that go to the heart of the Examining Authority's ability to lawfully recommend consent.

It is recognised that the LCC LIR is expected by Deadline 1 and that responses to some of the ExQ1, also due by Deadline 1, may shed further light and define more clearly the LCC position.

We note that there is no reference to the LCC Strategic Growth Plan 2018 (SGP), adopted across Leicester and Leicestershire, and in particular, no reference to the currency of the accompanying Strategic Transport Assessment (STA) which one might expect to be fundamental given the vision set out around 'East Midlands Growth Point' (sic)

The issues identified relate primarily to:

- The adequacy and completeness of the transport evidence base
- The robustness of the Environmental Statement and assessment methodology
- The reliance on uncertain or future mitigation, notably re the Strategic road Network (SRN) and hence the Local Road Network (LRN)
- The adequacy and enforceability of the draft Development Consent Order (dDCO)
- Compliance with statutory and policy requirements, including the Planning Act 2008, the National Policy Statement for National Networks (NPSNN), and the Equality Act 2010

Taken together, these concerns indicate that the Application, as currently presented, may not provide a sufficiently robust basis for the grant of development consent.

## 2. Incomplete Transport Evidence and Modelling

A central concern is that the transport evidence base is materially incomplete at the point of examination.

LCC confirms that key elements of the transport assessment for the SRN/LRN are based only on the private sector consortium work and are either outstanding or only recently submitted, including:

- Post-COVID modelling using the PRTM 2023 model
- Microsimulation modelling (VISSIM) for Junction 24 (J24)
- An intended partial solution for J24
- Finalised strategic mitigation proposals
- Affordability, funding readiness and implementation

Furthermore, a substantial proportion of the assessment relies on the earlier PRTM 2019 model, which predates significant and well-documented changes in travel behaviour.

This raises three fundamental issues:

1. Baseline reliability – The continued reliance on pre-COVID modelling risks materially misrepresenting traffic patterns and demand.
2. Assessment completeness – Without completed microsimulation and confirmed mitigation, the operational performance of the integrated SRN and LRN networks cannot be robustly understood.
3. Decision-making risk – The Examining Authority cannot be satisfied that the residual cumulative impacts are known, let alone acceptable.

In the absence of a complete and consistent transport evidence base, it is not possible to conclude that the development would not result in “severe” impacts, as required by the NPSNN.

## 3. Inconsistency and Uncertainty in Modelling Assumptions

LCC identifies inconsistencies in how access arrangements and infrastructure have been applied across modelling scenarios, including changes such as the introduction of a Toucan crossing.

Such inconsistencies undermine confidence in the outputs of the modelling and the comparisons drawn between scenarios.

Transport modelling must be internally consistent to provide a reliable basis for decision-making. Where this is not the case, there is a material risk that:

- Impacts are understated or misrepresented
- Mitigation is incorrectly specified or insufficient
- Conclusions drawn in the Environmental Statement are unreliable

This represents a significant flaw in the assessment methodology.

## 4. Unconventional Reliance on DCO Requirements in Place of Assessment

The Applicant has not revised trip rates to reflect increased floorspace, but instead proposes to address the additional impact through a DCO requirement intended to limit highway effects.

LCC explicitly describes this approach as “unconventional”.

This approach raises a fundamental concern: the substitution of assessment with control.

The Planning Act 2008 regime requires that:

- Likely significant effects are assessed at the application stage
- Mitigation is identified and demonstrated to be effective
- The Examining Authority is able to reach a reasoned conclusion on impacts

DCO requirements are intended to secure mitigation, not to compensate for gaps in the evidence base.

Reliance on future controls to manage impacts that have not been properly assessed introduces unacceptable uncertainty and risks deferring critical matters beyond the point of consent.

## 5. Prematurity and Strategic Uncertainty

LCC's representation makes clear that the EMG2 proposals form part of a wider and evolving growth strategy associated with the East Midlands Freeport and related development initiatives.

However, LCC states that:

- The wider strategy remains at an early stage

- There is no confirmed policy or delivery mechanism
- The acceptability of the proposed infrastructure in the wider context may not be known during the examination

This gives rise to a clear issue of prematurity.

The Application is being advanced in the absence of a defined and deliverable strategic framework within which its impacts can be properly assessed.

In particular:

- The adequacy of strategic highway mitigation is uncertain
- The cumulative impact of growth has not been resolved
- There is a risk that the development relies on infrastructure that is not secured

The Examining Authority must assess the Application on the basis of realistic and deliverable mitigation, not on the assumption that future strategies will resolve current uncertainties.

#### 6. Cumulative Impact Assessment

Closely linked to the above is the issue of cumulative impact.

LCC identifies that EMG2 is only one component of a broader pattern of growth, as anticipated in the emerging NWLDC Draft Local Plan. However the mechanisms for assessing and mitigating cumulative effects remain underdeveloped.

This is particularly significant in relation to:

- The Strategic Road Network
- Air quality and associated health impacts
- Construction and operational traffic

The absence of a clear and agreed cumulative mitigation strategy raises the risk that:

- Impacts have been underestimated
- Mitigation is insufficient
- The true scale of effects has not been properly assessed

This is contrary to the requirements of the EIA Regulations and relevant national policy.

#### 7. Deficiencies in the Draft Development Consent Order

LCC raises several concerns regarding the adequacy of the dDCO, including:

- Agreed wording on surface water drainage not being included
- The absence of a secured Site Waste Management Plan
- Unresolved issues relating to protective provisions and requirements

These matters are not minor drafting issues; they go directly to the enforceability of mitigation.

If mitigation measures are not clearly and robustly secured within the DCO:

- There is no guarantee that they will be delivered
- The assessment of effects becomes unreliable
- The decision-making framework is undermined

The Examining Authority must be satisfied that all necessary mitigation is secured through precise and enforceable provisions.

#### 8. Public Health and Equality Considerations

LCC highlights that:

- Vulnerable population groups have been scoped out of the main health assessment
- These groups are instead addressed only in the Equality Statement
- The assessment is based on transport modelling that is not yet complete

This raises concerns in relation to the Public Sector Equality Duty.

The duty requires decision-makers to have due regard to the impacts of development on protected and vulnerable groups, based on a robust and evidence-based assessment.

Where:

- Relevant groups are excluded without clear justification
- The assessment is based on incomplete or uncertain data

there is a risk that the duty has not been properly discharged.

This represents both a substantive concern and a potential legal vulnerability.

#### 9. Overall Conclusions

The concerns identified above are not isolated technical matters; they are interconnected and mutually reinforcing.

Taken together, they indicate that:

- The evidence base is not yet sufficiently complete or robust
- Key impacts, particularly in relation to transport, are not fully understood
- Mitigation is uncertain, in some cases unsecured, and in others dependent on future actions
- The Application relies on assumptions that cannot be verified at this stage

In these circumstances, the Examining Authority may find it difficult to reach a reasoned and lawful conclusion that:

- The likely significant effects of the development have been properly assessed
- The residual impacts are acceptable
- The proposed mitigation is effective and deliverable

Unless these matters are resolved during the course of the examination, there is a clear risk that the Application does not meet the requirements of the Planning Act 2008 or relevant national policy, and should not be recommended for consent.

#### 10. Suggested Focus for Further Examination

In light of the above, it is suggested that the Examining Authority gives particular attention to:

- The completeness and consistency of the transport modelling
- The robustness of the cumulative impact assessment
- The justification for reliance on DCO requirements in place of assessment
- The adequacy and enforceability of the dDCO provisions
- The treatment of vulnerable groups within the health and equality assessment

These matters are central to determining whether the Application is capable of being supported.