

AI Declaration

The author of this item confirms that it was prepared on the basis below;

1. Asking Copilot to identify weaknesses in the applicant's response to each question.
2. Cross-referring the Copilot answer to the original text.
3. Identifying which points: (i) they agreed with. (ii) understood (iii) and considered to be relevant.
4. Personally, drafted a summary of these points by hand using a combination of the Copilot answer, the original text and "inside knowledge".

Each ExP question and response is referenced by number.

11.0.1:

The NWLDC response states simply that it "agrees with the applicant's assessment" in respect of intervisibility and that "there are no differences in conclusions" for the MCO application. However, no reasoning is provided to explain why agreement has been reached, whether the authority independently tested the Applicant's assumptions, which heritage principles were applied (e.g. NPPF, PPG, Historic England guidance on setting), or whether professional judgement was exercised beyond reliance on the Applicant's documentation. As a result, the response is assertive rather than evidential, and does not lead to an understanding of the basis of NWLDC's agreement.

Historic England does not endorse the Applicant's heritage assessment as currently framed. HE raises specific concerns about the way heritage setting and experience have been assessed, particularly where the Applicant has relied heavily on the absence of current intervisibility as a screening criterion. In relation to Diseworth Conservation Area and the Grade II-listed Church of St Michael and All Angels, HE stresses that any conclusion must be grounded in a more holistic assessment of setting that goes beyond static views, including:

- the approach to Diseworth from the north-east along Hyam's Lane,
- the kinetic experience of movement through the landscape,
- the group value and landmark role of the church spire within the conservation area.

HE advises that these aspects should be revisited in line with its Good Practice Advice Note 3 (GPA3), particularly when considering design and mitigation.

HE is also critical in respect of St Mary and Hardulph Church. While the Applicant concludes that there would be "no meaningful impact" on this asset, HE disagrees and considers that:

- the proposed development would introduce competition in the skyline;
- the elevated position and long-distance views associated with this church would be affected;
- this would result in harm to significance, even if at the lower end of the "less than substantial harm" spectrum.

HE emphasises that the presence of existing modern infrastructure does not negate or cancel out further harm caused by additional development and that such harm must be assessed proportionately, not dismissed on the basis of an already altered landscape.

Finally, HE notes that where less than substantial harm is identified for designated assets, NPPF paragraph 215 requires that this harm must be clearly identified and weighed against the public benefits of the proposal.

Protect Diseworth agree with Historic England that the use of *current* intervisibility as a criterion for excluding effects on the settings of heritage assets appears to be inappropriate for a site where the development itself is expressly intended to re-model ground levels, introduce very large scale built form, introduce tall vertical elements (i.e. warehouse massing), and potentially remove or reduce existing screening features over time. Consequently, clarification is required as to how reliance on present-day conditions provides a sound basis for excluding setting effects arising from future visibility, scale and contextual changes. Protect Diseworth also stress that the public benefits of this proposal are being overstated in order to tip the balance in favour of the acceptance of harm to a 2000 year old historic conservation area.

11.0.2:

The Applicant refers only to the Enclosure Map and the 1848 Tithe Map without any discussion of scope or limitations. They give no justification as to why these sources alone are sufficient to rule out ecclesiastical land associations when other potential sources could have been consulted (e.g. parish records, glebe terriers, diocesan archives, or later tithe apportionments). Neither has it been investigated whether ecclesiastical influence might have existed indirectly (e.g. through patronage, advowson, or land tenure arrangements not captured in tithe mapping). The response does not demonstrate that the Applicant has considered whether there are any indirect associations, historic agricultural use in support of parish life, or long-standing spatial relationships that might nonetheless be relevant to setting or communal value.

The second part of the question has been avoided by an assertion that an absence of evidence in their own very narrow investigation justifies a statement that no changes are required. No explanation is given as to why—or on what heritage principles—their investigation justifies a sound conclusion that the existing assessment of setting and significance is complete.

11.0.3:

The NWLDC response relies on LCC's archaeologist confirming, based on review and site attendance, that no remains are of equivalent significance to Scheduled Monuments. However, it does not explain what criteria were applied in reaching that judgement, how equivalence was assessed against the Footnote 75 NPPF test (which is intentionally stringent), or whether factors such as rarity, survival, group value, or potential to inform national research frameworks were considered. The conclusion is therefore asserted rather than demonstrated, which limits its evidential weight.

The HE response is simply a statement of no current concern, rather than a statement of no potential concern. HE explicitly states that it is not aware of archaeological features of equivalent significance to Scheduled Monuments, defers to the County Council Archaeological Officer (LCC) on all below-ground archaeology matters and confirms it has not independently interrogated archaeological significance beyond what has been brought to its attention. This is not a positive endorsement but simply a non-objection by deferral.

11.0.4:

The acknowledgement of the conflict is welcome, but is not a means of resolving it. The revised text repeatedly states that impacts and effects are “offset through recording and publication”. This approach remains problematic because PPG ID 18a-002-20190723 is explicit that the ability to record archaeology must not be a factor in deciding whether loss should be permitted. The Five Estuaries decision letter confirms that preservation by record does not reduce harm and cannot be treated as compensation for loss in the planning balance. By continuing to describe recording as “offsetting” impacts, the revised wording reintroduces precisely the logic that policy prohibits, even while simultaneously stating that impacts are “not reduced”. In effect, the amendments change the wording but not the reasoning. The revised paragraphs repeatedly assert two contradictory propositions, those being

1. Recording “offsets” impacts and effects; yet
2. Recording “will not reduce the overall impacts or effects” and the residual effect “will remain unchanged”.

If the residual effect is unchanged, then recording cannot logically be said to offset harm in planning terms. The continued use of that term blurs the critical distinction between:

- acceptance of harm (a planning judgement), and
- archaeological response to accepted harm (a mitigation practice).

This internal inconsistency undermines the clarity and policy alignment of the assessment narrative. This approach implies that the stated recording benefits contribute to why the harm is acceptable, rather than being consequences that follow after harm has already been justified.

The ExP question asked not only for reconciliation of wording, but for confirmation that assessment conclusions remain valid, or if different conclusions arise, that these be clearly set out. While the Applicant states that the residual effects will mirror the construction phase significance, there is no clear explanation of why those levels of harm are considered acceptable in policy terms, or whether alternative avoidance or minimisation strategies were considered.

The revised wording introduces multiple residual effect statements, including “Moderate to Minor Adverse residual effect”, “negligible residual effect on remaining assets” and statements that residual effects “remain unchanged”. It is not clear which receptors have which residual effect, whether “unchanged” refers to magnitude, significance category, or both, and how these conclusions align across Tables 12.8 and 12.10. This reduces transparency and makes it difficult to track the reasoning from impact to conclusion.

11.0.5:

The Applicant’s core argument is that because the M1 plus EMG1 works and associated infrastructure are already present in the foreground of the view (as shown in Plate 11), there can be no further effect on the Church’s setting or significance. This is a weak premise because Heritage policy does not treat an already compromised setting as incapable of further harm. Incremental or cumulative change can still be harmful, particularly where it increases visual dominance, intensifies industrial character, or further erodes the legibility of a landmark within the wider landscape. In effect, the Applicant’s position risks a “baseline capture” argument, where existing harm is treated as a justification for allowing additional change without proper assessment.

The response describes existing infrastructure as an “established component of the view” but does not assess the nature of the proposed change, specifically whether new highway works alter alignment, movement patterns, traffic intensity, lighting, or whether the proposed M1–A50 link introduces a new engineered form distinct from the existing motorway. The issue is not simply whether infrastructure exists, but whether the proposed development changes the character of that infrastructure in a way that affects how the Church is experienced.

Although the ExP explicitly requested consideration of “the Church spire as a designed landmark element within the wider landscape (including its vertical prominence/ skyline role)”, the Applicant concludes, without analysis, that the EMG1 Works “do not compete with or diminish the spire’s role”. This is asserted, not demonstrated in the absence of and comparative analysis of heights (spire vs gantries/cranes), assessment of skyline competition or visual clutter or consideration of altered focus or distraction in key views. A landmark’s role can be diminished without being physically obscured, particularly through introduction of competing vertical elements or loss of visual clarity and prominence. The Applicant relies on Historic England guidance that “tall church spires are unlikely to be affected by small-scale development unless that development competes with them”. However, this reliance is weak because the EMG works and MCO gantry cranes cannot reasonably be described as “small-scale development”.

The Applicant’s statement that they can provide if required an updated assessment implicitly acknowledges that the existing analysis does not address the ExP concerns in full. This suggests that the current conclusion is not the result of a completed and tested assessment.

11.0.6:

NWLDC’s response places decisive weight on the fact that the land was leased to agricultural tenants and was not acquired “to form part of a formal setting”. This is problematic because Heritage setting is not limited to land intentionally designed as setting. Historic England guidance (which the question correctly cites) is explicit that “historical and cultural association may also form part of the asset’s setting.” Agricultural land owned, managed, or economically tied to an estate can form part of setting, even if informally arranged or tenanted. The response therefore narrows the concept of setting more than national guidance allows, treating formal design intent as determinative. NWLDC states that “the connection is not legible”, but does not explain how legibility was assessed. There is no reference to historic mapping evidence, estate boundaries, routeways, land use continuity, or experiential understanding of estate land. Legibility is a matter of heritage judgement, and without explanation it becomes a bare assertion rather than a reasoned conclusion.

The question explicitly references the Applicant’s assessment, and Prologis UK’s Relevant Representation stating that the land *does* form part of the setting. However, the NWLDC response does not acknowledge the existence of this contrary interpretation, explain why it disagrees with that view or set out why one interpretation was preferred over another. The response concludes that the land does not make a meaningful contribution to the setting or significance, but it does not explain whether any contribution exists but is minor, or whether the contribution is considered negligible or zero.

HE accepts that the Site historically formed part of the monastic and estate landscape associated with Langley Priory (Grade II*), St Mary and St Hardulph Priory Church at Breedon on the Hill (Grade I), and the associated scheduled hill fort. They go on to state that they do not agree with the

applicant's conclusion that there is no setting impact and state that that harm would be at a negligible level of less than substantial harm. They do not quantify why the acknowledged harm will be classified as negligible, nor do they quantify what the acknowledged remaining significance contribution of the site actually is.

11.0.7:

Protect Diseworth completely agree with LCC that the EMG2 application underestimates the impacts upon the setting and character of the Diseworth Conservation Area. We would therefore ask LCC to further clarify their position, giving clear recommendations whether:

- further assessment is required;
- further mitigation (design changes, buffering, layout amendments) should be considered;
- the ES conclusions should change.

Additionally, LCC identifies both the surviving medieval and post-medieval ridge-and-furrow earthworks and a probable windmill mound (HER MLE4744) as non-designated heritage assets contributing to conservation area significance, but neither of these is properly addressed in the Conservation Area Assessment.

11.0.8:

The second and more substantive part of the question asked whether “the proposed development would have any effect on the significance of any of these heritage assets (using ‘significance’ as defined in the Glossary of the Framework)”. The response does not reference the Framework definition and limits consideration to visual screening, and appreciation of architectural value only. There is no assessment of historic, evidential, associative, or communal value, which is a material omission when responding to a heritage policy question. The statement that: “these buildings are largely screened from the proposed development by the built fabric of Diseworth village” is a simplistic and incomplete heritage test because screening alone does not determine whether significance is affected. The response states that the buildings are “largely screened” which is in itself an admission that they are not fully screened, without explaining how the screening was assessed, whether it is entirely permanent or partially seasonal, and whether upper floors, gardens, or approach routes were considered.

The Conservation Area appraisal identifies nearly 50 Unlisted Buildings of Interest, yet NWLDC identifies only one locally listed building and provides no differentiation between buildings of higher or lower contribution, centrally located or edge-of-settlement assets, or assets whose significance may be more sensitive to change. A single generic conclusion applied to all assets is not a proportionate heritage assessment in an area of differing elevations, where the proposed site is largely elevated above the level of the village, and particularly where the question asks *which assets* might be affected and *why*.

11.0.9:

The Applicant's response is procedurally candid but substantively weak, because it acknowledges an error in identifying the applicable conservation area duty, but does not explain whether or how the correct PA2008 statutory test has been applied. It asserts, without justification, that conclusions remain unchanged and provides no clarity on the nature or scope of the proposed amendment. Further clarification is therefore

required to confirm that the conservation area assessment has been undertaken with proper regard to the statutory duty under regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010; and that the Examining Authority can rely on the ES conclusions for Diseworth Conservation Area with confidence.

11.0.10:

The Applicant's explanation that "within or close to" means "within 500 m of the Order limits" is helpful, but it also confirms that paragraph 12.3.3 was ambiguous as submitted. The original wording gave the impression that no Scheduled Monuments were relevant to the EMG2 Project, but the Bulwarks Scheduled Monument (AR10) was in fact assessed in detail elsewhere in Chapter 12. The need for clarification during Examination demonstrates that the ES did not communicate its screening logic clearly at submission. Additionally, the 500 m distance criterion to define what is "within or close to" the project is introduced without any policy basis, guidance reference, or professional justification is provided for adopting it as a meaningful screening distance. National heritage guidance does not prescribe fixed distance thresholds for assessing effects on Scheduled Monuments, particularly effects on setting. As such, the threshold appears arbitrary unless explicitly justified

The Applicant states that Scheduled Monuments were screened into or out of assessment based on the Desk Based Assessment (DBA) conclusions. However the Bulwarks Scheduled Monument is acknowledged to lie outside the 2 km study area, yet it is included due to its "prominent position within the wider landscape". Other Scheduled Monuments within or close to the 2 km study area are scoped out. This introduces an internal inconsistency, as Landscape prominence and setting are cited as a reason to include The Bulwarks, but the response does not explain why similar reasoning was not applied to other Scheduled Monuments identified within the wider study area, particularly those at Breedon-on-the-Hill raised in NWLDC's RR. The Applicant's repeated relies on the DBA as having "robustly assessed" impacts without summarising what criteria were applied in the DBA to conclude "no harm", whether those conclusions relate to physical impacts only, or setting, views, prominence, and contextual relationships, how the DBA conclusions were translated into the ES Chapter 12 screening decisions necessitates reliance on cross-referencing lengthy appendices to understand fundamental screening judgments, thus reducing transparency. Although the response lists Scheduled Monuments near Breedon-on-the-Hill and acknowledges their consideration within the DBA, it does not directly respond to NWLDC's concern about how these designated assets are treated within ES Chapter 12 or explain why these monuments are scoped out of detailed assessment when they are within or adjacent to the stated 2 km study area. There is no clarification whether setting effects arising from topography, prominence on elevated ground, or wider landscape appreciation were assessed and dismissed. As a result, the rationale for excluding these assets from further assessment remains opaque.

11.0.11:

The Applicant confirms that Part of Site A will be removed and subject to preservation by record, and that the entire area at Junction 24 (Field 40), which was previously preserved in situ, is to be removed in its entirety. However, Appendix 12B previously described these areas as having been selected for preservation in situ under the EMG1 DCO, so the response confirms that preservation in situ is no longer being maintained for at least two of the three previously protected areas. The Applicant does not explain why removal of Field 40 is now acceptable when it was previously preserved, whether avoidance options were reconsidered, or how this change affects the balance of harm in heritage terms. The effect is that preservation in situ appears to be treated as contingent

rather than protected, which is contrary to the principle that in-situ preservation is the preferred outcome.

The approach that monitoring is sufficient where prior preservation existed does not explicitly acknowledge that loss of preserved deposits represents a downgrade in heritage protection compared to the EMG1 position. There is no explanation of how this increased harm has been reassessed.

The Applicant acknowledges that Figures 5 and 6 of Appendix 12B “can be modified to better locate these areas in question”, confirming that there is no clear, consolidated plan showing which areas remain preserved in situ, which are partially encroached, which are removed entirely, and how these relate spatially to Order Limits and construction footprints. This material omission requires the cross-referencing of multiple appendices and figures in order to infer this information, undermining transparency and making scrutiny unnecessarily difficult.

11.0.12:

The Applicant states that the archaeological evidence base is “sufficient to define the mitigation approach”, but does not explain how or why the evidence base is sufficient. The ExP question was not simply whether trenching had occurred, but whether the outcomes are demonstrably adequate to define mitigation and that analytical step is missing. The Applicant relies heavily on correspondence from the LCC Archaeological Officer (dated 30 January 2026) stating that the evidence base is sufficient and that further trenching can be secured via Requirement 13. While LCC’s view is relevant, it is not a substitute for explanation. The Applicant does not summarise the substance of LCC’s reasoning, explain the assumptions underpinning that concurrence, or confirm whether LCC’s acceptance is conditional or precautionary. This makes it difficult to independently assess whether the evidence base is genuinely robust, or merely pragmatically acceptable subject to later control. The Applicant states that no further pre-determination evaluation is required, yet simultaneously confirms that additional trial trenching has been requested by LCC and will take place (albeit post consent). This undermines the certainty of the claim that the current evidence base is sufficient. If further trenching is necessary to “refine the extent” of excavation, this it implicitly acknowledges that the full extent of archaeological remains is not yet known and so the mitigation strategy is not finalised. The assertion that “the anticipated results ... are not expected to change the assessment” effectively pre-judges the outcome of any further evaluation. This is contrary to the purpose of evaluation itself.

The ExP question explicitly asking whether further evaluation is required for “any part of the authorised development (including Highway Works)” is not properly addressed as the Applicant’s response focuses almost exclusively on Field 40 adjacent to Junction 24, and does not clearly confirm whether highway corridors, embankments etc. were evaluated to a sufficient level, or whether any highway areas are now reliant solely on post consent investigation.

LCC confirms that the trial trenching programme has been sufficient and adequately undertaken but does not explain what criteria were used to judge sufficiency (coverage, density, representativeness) and whether sufficiency applies equally across the EMG2 Main Site, MCO areas and Highway Works corridors, and whether there are areas of lower confidence within the evidence base. As with several other LCC responses, professional assurance is provided without an audit trail, limiting the ability to understand why the conclusion has been reached. LCC states that the trial trenching programme is sufficient and that

“No additional pre-determination trial trenching has been requested on any aspect of the scheme...” yet also states that “Further archaeological investigation ... will target investigation of the archaeological impact of the planned Highway Works.” This raises the question of whether the evidence base is already sufficient to define mitigation, and if so, why is further archaeological investigation still required to understand impacts? This suggests that key uncertainties remain unresolved at determination stage, particularly for the Highway Works. The response implicitly accepts a lower evidential threshold for the Highway Works than for other parts of the scheme, by deferring investigation entirely post consent. This raises questions such as “why are below-ground impacts for highway works less critical to assess in advance?” and “how is proportionality being applied consistently across the project?”

16.0.13:

The Applicant states unequivocally that “the assessment of effects does not rely upon the delivery of the Community Park.” This is a bare assertion, given that NWLDC has raised the Community Park as acting as a buffer; and the ExP specifically asked the Applicant to explain *whether and to what extent* the “no significant effect” conclusion relies upon that buffer. The Applicant’s response does not provide any reasoning showing why the Community Park is not relied upon, beyond citing the absence of reference in a limited paragraph range. This is insufficient without explaining how the same conclusions would still be reached in the absence of that measure.

The Applicant refers narrowly to Appendix 12A, paragraphs 5.30–5.34, and notes that these paragraphs do not mention the Community Park. However, the ExP question is not limited to whether the Community Park is mentioned in a specific paragraph; it asks where within the submitted heritage assessment as a whole the role of the Community Park/buffer is set out, if relied upon. By limiting its response to a small extract of Appendix 12A, the Applicant does not demonstrate that the Community Park plays no implicit or contextual role elsewhere in the assessment, or address whether baseline assumptions, landscape context, or conclusions may have been influenced by anticipated buffering or separation.

The failure to address how heritage significance (i.e. harm to the significance of a conservation area under the NPPF and PPG) relates to or is distinguished from EIA significance, or whether an effect that is *not significant in EIA terms* could nonetheless constitute harm in heritage policy terms is a material omission. This is because heritage assessment and EIA use different conceptual thresholds, and conflating those risks understating heritage impacts.

Although the Applicant confirms that the robustness of heritage conclusions is unaffected if the community park is not delivered, the response does not explain what aspects of the site context, distance, screening, or design ensure the Conservation Area is unaffected. There is no presentation of a scenario where the Community Park is delayed, reduced, or not delivered. The ExP explicitly asked: “where within the submitted heritage assessment the role of the Community Park / buffer is clearly set out as part of the basis for the Diseworth Conservation Area conclusions (including which specific measures are relied upon)”. If the Community Park is *not* relied upon, the logical expectation is that the Applicant would identify what measures are relied upon instead (e.g. separation distance, topography, orientation, building heights, retained landscape features). The response does not do this, and as a result, the basis for the “no significant effect” conclusion remains unclear. The Applicant concludes by stating that “The Applicants are satisfied that the heritage conclusions ... remain robust”, but the ExP is not asking whether the Applicant is satisfied, but whether the conclusions can be objectively traced to a clear and resilient evidential basis, particularly given acknowledged uncertainty around the Community Park’s delivery.

11.0.14:

While assuming concurrent construction may represent a reasonable worst-case scenario, the Applicant does not explain how this assumption has been tested or why the conclusions are robust if it proves incorrect. In the absence of any sensitivity check or explanation of outcomes under no overlapping or partially overlapping construction periods, the Examining Authority cannot be confident that the assessment conclusions are not contingent on a single programme assumption rather than representing a bounded and resilient worst-case envelope.

11.0.15:

The Applicant does not confirm that the requested schedule has been prepared in the form specified, does not demonstrate that all required assessment and policy information is included, does not confirm provision of an Excel version and does not commit to the iterative update and change log process requested by the Exp. As a result, the Examining Authority cannot be confident that Annex 11A fulfils the stated purpose of a single, definitive, examination-ready heritage impact assessment schedule, and further clarification or resubmission is required.