

Document MCO 3.5

Schedule of Changes to the Draft MCO

JULY 2026

The East Midlands Gateway Phase 2
and Highway Order 202X and The East Midlands Gateway
Rail Freight and Highway (Amendment) Order 202X

The East Midlands Gateway Rail Freight and Highway (Amendment) Order 202X

SCHEDULE OF CHANGES TO THE DRAFT MCO (DOCUMENT MCO 3.5)

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1. Response to ExP's Initial Observations on Drafting of the dMCO

Ref	Issue	Query	MCO Applicant's Response
General Queries			
R6M1.	Drafting	Potential Typographic errors The ExP has identified the following potential typographic errors. The applicants are asked to review the dMCO generally and the following provisions specifically: 1 In article 2(4), at the end of the definition of "additional environmental statement" there appears to be an unnecessary end of quotation mark. 2 In article 2(7) potentially amend as follows: " "; (e) divert each of the public rights of way specified in columns (1) and (2) of Part 4 of Schedule 5 (public rights of way to be created) to the extent specified in columns (3) and (4) of that Part of that Schedule" In other words, the insert starts earlier, with a semi colon, then the main insert, and finally delete the full stop, as it remains.	1 – 3. The MCO Applicant has made these changes to the dMCO submitted at Procedural Deadline A. 4. Article 2(25) of the dMCO has been amended in the dMCO submitted at Procedural Deadline A to refer to Appendix 13J of the additional environmental statement being the Sustainable Drainage Statement – EMG1 Works. 5. Given the difficulties in placing the " in the correct place, the " has been deleted from article 2(28) in the dMCO submitted at Procedural Deadline A on the basis that it is unnecessary.

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		3 In article 2(10) replace from "replace Works No. 2(a)(iii)" to the end of the insert with, "after "gantry cranes and reach stackers" insert "up to a height of 24 metres as shown on the additional parameters plan", as the initial words are in the EMG1 DCO. 4 In article 2(25), the reference to 'appendix 13L'. Either this reference is incorrect, or it relates to a document submitted into the EMG1 examination. Please either amend or submit that document into this examination. 5 In article 2(28) the final quotation mark is in the incorrect place (it is appreciated there is a difficulty in setting this out due to how Word works). The applicants are asked to undertake a comprehensive check of the cross-referencing with the draft MCO both internally and the external documents. For example, article 2(11) references an "additional works plan", which is defined in article 2(1) and certified in article 2(9) as the additional works plan (Document MCO 2.2). However, the document reference is actually MCO 2.3.	
R6M2.	Article 2(11)	Work 3B	The existing building containing the "management offices" and referred to as the "management suite" on the additional parameters plan (MCO 2.5) was

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		In article 2(11) for Work No. 3B there is reference to the "extension of the management offices". However, there is no reference to "management offices" in the EMG1 DCO. Could the applicants please clarify this since it is not possible to extend a building that does not lawfully exist. (See also agenda item 3 for ISH1).	provided as part of the bus interchange buildings permitted under Works No. 5 as described in Schedule 1 of the EMG1 DCO. Work No. 3B as set out in the dMCO will be an extension to an existing building to provide additional office accommodation. The MCO Applicant has amended the description in the dMCO submitted at Procedural Deadline A to reflect this.
R6M3.	Article 2(11), (12), (13) and (14)	Definition of Works No. 3A, 3B, 5A, 5B, 5C, 6A and 8A (i) Some of the matters in the lists of Works 3A, 3B, 5A, 5B and 5C are set out in the further works (1) in Part 4 of the EMG1 DCO. Could the applicants explain why some elements are duplicated, or should they be rationalised, so they only appear once. (ii) Additionally, some of the definitions appear somewhat tautologous. For example, could the applicants explain why the phrase "rail served warehousing" is used in both the opening phrase and item (b) in Work No. 3A, and why there is both "integrating and enhancing green infrastructure" and "incorporating biodiversity enhancements" in Work 6A?	(i) The MCO Applicant has sought to provide a fuller description of the new works proposed by the dMCO to aid clarity as to the extent of those works. This has led to some duplication with Part 4 of the EMG1 DCO. The descriptions could be rationalised if required. (ii) The MCO Applicant has reviewed and refined the description of the works including Works Nos. 3A and 6A in the draft MCO submitted at Procedural Deadline A. (iii) The MCO Applicant confirms that the two terms are intended to have the same meaning, namely the installation of a roof mounted solar energy system. At the time of the EMG1 DCO, the solar energy provision comprised solar thermal evacuated tubes whereas photovoltaic panels are now the most common and preferred solar energy system. The

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		(iii) In the EMG1 DCO the provision of photovoltaics is termed "solar energy provision", while in the dMCO it is term "roof mounted photovoltaics". Could the applicants explain why different terminology has been used?	term "roof mounted photovoltaics" is consequently preferred as being clearer and more precise.
R6M4.	Article 2(13)	Work 6A Could the applicants explain how point (f) in Work 6A "the stopping up of existing and creation of new public rights of way as shown on the access and rights of way plan" interplays with Work 3A and the new Part 4 of Schedule 5?	The reference in point (f) of Works No. 6A should be to the "additional access and rights of way plan". This has been corrected in the dMCO submitted at Procedural Deadline A. Please note that point (f) has become (e) in the dMCO submitted at Procedural Deadline A. The reference in column (4) of the new Part 4 of Schedule 5 has also been amended to refer to Works No. 6A not 3A. In order to comfortably provide additional warehousing within plot 16 (Works No. 3A), it is necessary to divert public footpath L112 from its current alignment as shown with a dashed red line on the additional access and rights of way plan (Document MCO 2.4) to a new alignment as shown by a brown dashed line on the additional access and rights of way plan (Document MCO 2.4). The works to close the original alignment will be undertaken as part of Works No. 3A and the new alignment will be constructed as part of Works No. 6A. The new Part 4 of Schedule 5 ensures that the new alignment of the footpath is provided by completion of Works No. 3A.

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R6M5.	Article 2(14)	Work 8A Could the applicants please explain how the "EMG1 exit road" would be defined within the amended Order, particularly in light of proposed Work No.13 in the EMG2 dDCO?	The "EMG1 exit road" is known as Wilders Way. The description in the dMCO has been amended in the dMCO submitted at Procedural Deadline A. The dDCO, if made, will not change the name of the road or impact on Works No. 8A will continue to be provided pursuant to the dMCO if made.
R6M6.	Article 2(18), (19), (20) and (24)	Drafting (i) The phrase "such alternative trigger" could be considered to be a 'tailpiece' (see point R6D6. in annex E(i) and therefore not be precise. (ii) In order to avoid ambiguity, could the applicants consider whether agreements should be in writing, and if so, could the drafting be amended to provide for this. (iii) Given that the applicants indicates that the development authorised by the EMG1 DCO was completed in October 2024 [APP-010M], could the applicants explain why the phrase "Save for that phase comprising plot 16" is necessary in article 2(19) and (24)? Would alternative drafting be more appropriate?	(i) The wording has been deleted in the dMCO submitted at Procedural Deadline A. (ii) The wording in articles 2(20) and 2(28) of the dMCO submitted at Procedural Deadline A has been amended to refer to agreement in writing. The MCO Applicant has not amended the wording of article 2(19) on the basis that it relates to development already completed. The MCO Applicant has further not amended the requirement in article 2(26) on the basis that variations agreed by the sustainable transport working group will not be in writing. (iii) The wording in articles 2(19) and 2(24) is necessary to ensure that development comprising plot 16 is undertaken in accordance with the details submitted as part of the MCO application and not in accordance with details authorised by the EMG1 DCO which are now out of date. If the ExP prefers, the wording "Save for that phase comprising plot 16" could be deleted from articles 2(19) and 2(24) and the wording of articles 2(20) and requirement 16 as

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			set out in article 2(24) could be amended to achieve the same outcome.
R6M7.	Article 2(26)	Travel plan Could the applicants explain why any occupier should only comply with the travel plan for five years rather than in perpetuity, given the traffic generation figures are based on an effective travel plan for the life of the development?	The wording is consistent with the EMG1 DCO. The Site Wide Travel Plan (Document 6.25) which was a certified document pursuant to the EMG1 DCO provided that an occupier specific travel plan would be submitted, approved and implemented as each individual unit came forward. Those occupier specific travel plans were intended to be implemented and monitored for 5 years from occupation of the building to which it applied. The Site Wide Travel Plan will continue in perpetuity (Requirement 3 of the EMG1 DCO) and will apply to the works authorised by the dMCO, if made, as it applies to the works originally authorised by the EMG1 DCO.
R6M8.	Article 2(27)	Justification The EM explains that this provision is to resolve a typographic error in the EMG1 DCO. In order for the ExP to be satisfied on this point, could the applicants please provide a copy of the original access and rights of way plan (document 2.3A) showing this matter.	A copy of the original access and rights of plan will be provided at Procedural Deadline A. Please note that two original plans bearing document references 2.3A and 2.3B will be provided because they cross refer.
R6M9.	Article 2(29) and (30)	Drafting Amendments to statutory instruments are not normally set out in this form. Could the changes	The MCO Applicant has amended the wording in the dMCO submitted at Procedural Deadline A.

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		proposed please be amended to meet conventional drafting.	
R6M10.	Clarity	Explanatory Memorandum The applicants are asked to review the EM to explain <u>why</u> each provision within each proposed Order, including articles and requirements, is required in the particular circumstances of the proposed development. For requirements this should concentrate on the six tests set out in paragraph 4.11 of the NNNPS and paragraph 57 of the Framework. The EM at present concentrates on <u>what</u> each provision would achieve. Where the applicants are relying on specific precedent provisions, then precise details of that precedent should be set out, that is citing the relevant individual provision reference.	The MCO Applicant is reviewing the draft Explanatory Memorandum and will submit an updated version at Deadline 2.

2. Changes made to the dMCO submitted at Deadline 2

Article	Summary of the change	Explanation for the change
2(10)	Additional wording confirming the permitted height of the gantry cranes has been relocated for clarity.	The Applicants' response to ExQ1-2.0.3 [REP1-054] confirmed that reach stackers do not need to reach a height of 24m and the wording has therefore been relocated for clarity.
2(11) and 2(12)	The Applicants have removed certain works from the lists of Works 3A, 3B, 5A, 5B and 5C which are already set out in the lists of 'further works' in Part 4 at the end of Schedule 1.	The deletions have been made to rationalise the matters listed in Works 3A, 3B, 5A, 5B, 5C and 'further works' as raised at R6M3 in the Applicants' Schedule of Changes to the Draft MCO [PDA-010M].
2(18)	The Applicants have removed reference to reasonable endeavours and must now provide the highway works comprising the construction of a signalised crossing at the entrance to the main site prior to the occupation of plot 16. The Applicants have included flexibility for an alternative timescale for delivery to be approved by the relevant highway authority.	The reference to reasonable endeavours was used to mirror the approved drafting in the EMG1 DCO. However, the Applicants have agreed with National Highways, the relevant highway authority, that a more precise trigger can be agreed given the nature of the works. National Highways has suggested including flexibility for a later trigger to be agreed to ensure the approach taken for the MCO mirrors the EMG2 dDCO.
2(26)	The Applicants have amended the wording of new Requirement 27 (Plot 16 Travel Plan) to delete "substantially" and thereby require occupier-specific travel plans to accord with the site wide travel plan. The changes also require compliance with the occupier-specific travel plan at all times, rather than a lesser period.	The changes to Requirement 27 have been made to mirror the approach in the EMG2 dDCO.

3. Changes made to the dMCO submitted at Deadline 5

Article	Summary of the change	Explanation for the change
2(21)	The Applicants have updated the wording at Requirement 6(2)(f) (detailed design approval)	The Applicants have responded to a request from the local planning authority on the dDCO to include additional details in respect of electric car charging points and shared car parking spaces. This change ensures parity for the new buildings to be constructed on EMG1.
2(27) to (29)	The Applicants have updated the standards identified at Requirement 24 (contamination risk)	The Applicants have responded to a request from the local planning authority on the dDCO to cite the relevant standards applicable to contaminated land and have updated the standards in the dMCO to ensure they are accurate and will apply to the construction of new buildings.
2(31)	The Applicants have inserted a new Requirement 28 (plot 16 electric hook up facilities)	The local planning authority requested the same requirement in respect of the EMG2 Main Site and the Applicants have inserted new Requirement 28 to ensure all warehouses served by HGVs with electric chiller facilities will have the same electric hook up facilities ensuring parity between the new buildings on EMG1 and EMG2.
2(34) and (35)	The Applicants have inserted updated protective provisions in favour of the Airport Operator.	The Airport Operator has made representations indicating that the standards which applied at the time the EMG1 Order was made have been updated. The Applicants have therefore included the updated standards they are proposing on the EMG2 Main Site.

4. Changes made to the dMCO submitted at Deadline 6

Article	Summary of the change	Explanation for the change
2(2), (3) and (4)	The Applicants have reordered these articles so that they appear in alphabetical order in the main Order and renumbered the articles accordingly.	In response to the ExP's schedule of changes [PD-027].
2(2)	The Applicants have replaced ", insert" with ", in the appropriate places insert".	In response to the ExP's schedule of changes [PD-027].
2(2)	The Applicants have inserted a definition for the Flood and Water Management Act 2010 at article 2(2) which is then subsequently referenced at article 2(26).	In response to the ExP's schedule of changes [PD-027].
2(9)(g)	The Applicants have inserted a new sub-paragraph (g) requiring the undertaker to submit for certification a copy of the addendum to the construction management framework plan (Document MCO 6.3A).	To reflect the change in Article 2(24) below.
2(10)	The Applicants have replaced "Part 1" with "Part 1, in Works No. 2" so as to specify the Works number to which the amendment relating to the height of the gantry cranes applies.	In response to the ExP's schedule of changes [PD-027].
2(17)	The Applicants have replaced the reference to "paragraph (2)" with "paragraph (3)" to correct a typographic error.	In response to the ExP's schedule of changes [PD-027].
2(19)	The Applicants have replaced "in agreement with the local planning authority" with "in agreement in writing with the local planning authority".	In response to the ExP's schedule of changes [PD-027].

Article	Summary of the change	Explanation for the change
2(20)	The Applicants have replaced "local planning authority)" with "local planning authority" to correct a typographic error.	In response to the ExP's schedule of changes [PD-027] .
2(21)	The Applicants have replaced "10%" with "ten per cent (10%)" and "11%" with "eleven per cent (11%)".	In response to the ExP's schedule of changes [PD-027].
2(24)	The Applicants have inserted a new sub-paragraph (24) which amends requirement 11(1) of Schedule 2 (requirements) so that, after "construction management framework plan (Document 6.10)", it now also requires that phase comprising plot 16 to accord with the principles set out in the addendum to the construction management framework plan (Document MCO 6.3A).	This change requires the CEMP for plot 16 to be in accordance with the addendum to the construction management plan. This is to ensure that the CEMP complies with the requirements of the Environment Agency and is consistent with the CEMP for the DCO Scheme.
2(27)	The Applicants have restructured the amendment to requirement 17 into two limbs and inserted a second limb requiring that, after "and approved in writing by", the words ", in consultation with the Environment Agency in relation to matters relating to its function," be inserted.	This change was requested by and agreed with the Environment Agency.
2(31)	The Applicants have inserted, after "agreed by", the words "the local planning authority in writing following consultation with".	In response to the ExP's schedule of changes [PD-027].
2(36)	The Applicants have amended "access" to "accesses" and inserted "and egress" after "emergency access".	This change was agreed with the airport operator.
2(37)	The Applicants have inserted "No. " before "8A" so that the reference reads "Works No. 8A".	This is to correct a minor typographical error.

APPENDIX
ABBREVIATIONS

The following terms shall have the following meanings:

dMCO	Draft Material Change Order
EMG1	DCO East Midlands Gateway Rail Freight Interchange and Highway Order 2016
EM	Explanatory Memorandum
ExP	Examining Panel

Any capitalised terms used in this document which are not defined in the table above shall have the same meaning as in the Glossary accompanying the MCO Application (MCO 6.1A) [APP-067].