

Tritax Symmetry (Hinckley) Limited

HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE

The Hinckley National Rail Freight Interchange Development Consent Order

Project reference TR050007

Environmental Statement Volume 1: Main Statement

Chapter 5: Relevant legislation and policy

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Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Regulation 5(2)(a)

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
Regulation 14

This document forms a part of the Environmental Statement for the Hinckley National Rail Freight Interchange project.

Tritax Symmetry (Hinckley) Limited (TSH) has applied to the Secretary of State for Transport for a Development Consent Order (DCO) for the Hinckley National Rail Freight Interchange (HNRFI).

To help inform the determination of the DCO application, TSH has undertaken an environmental impact assessment (EIA) of its proposals. EIA is a process that aims to improve the environmental design of a development proposal, and to provide the decision maker with sufficient information about the environmental effects of the project to make a decision.

The findings of an EIA are described in a written report known as an Environmental Statement (ES). An ES provides environmental information about the scheme, including a description of the development, its predicted environmental effects and the measures proposed to ameliorate any adverse effects.

Further details about the proposed Hinckley National Rail Freight Interchange are available on the project website:

<http://www.hinckleynrfi.co.uk/>

The DCO application and documents relating to the examination of the proposed development can be viewed on the Planning Inspectorate's National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/hinckley-national-rail-freight-interchange/>

Chapter 5 ◆ Relevant legislation and policy

INTRODUCTION

- 5.1. This chapter provides an overview of the legislation and policy relevant to the Proposed Development of the HNRFI and the assessment of environmental effects. Further legislation and policy relevant to the assessment of individual environmental topics are identified in the topic-based chapters of this Environmental Statement (ES) (chapters 7 – 19, document references 6.1.7 to 6.1.19).
- 5.2. This chapter does not provide an in-depth analysis of the policy framework or a planning balance of the merits of the HNRFI, which is undertaken in the Planning Statement (document reference 7.1).

INFRASTRUCTURE PLANNING

Planning Act 2008

- 5.3. The Planning Act 2008 (the ‘2008 Act’) introduced a new consenting regime for the development of nationally significant infrastructure projects (NSIPs) in the fields of energy, transport, water, wastewater and waste. The intention of the 2008 Act was to speed up the delivery of NSIPs through a consenting process that incorporates:
- Extensive pre-application consultation;
 - A ‘front-loaded’ design and Environmental Impact Assessment (EIA) process with limited scope to amend a proposal once an application is submitted;
 - The incorporation of a wide range of consents and authorisations in a single Development Consent Order (DCO) application in addition to planning permission, including the compulsory acquisition of land;
 - A clearly timetabled process for examining the application once submitted;
 - Applications determined in accordance with National Policy Statements (NPSs) approved in Parliament.
- 5.4. The 2008 Act was amended by the Localism Act 2011, which transferred responsibility for determining DCO applications from an Infrastructure Planning Commission to the relevant Secretary of State. In the current instance the DCO application will be determined by the Secretary of State for Transport. Applications are administered by the Planning Inspectorate (PINS), which acts as the Examining Authority (ExA) on the Secretary of State’s behalf.

Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- 5.5. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations 2017'), as amended, set out the procedural requirements for undertaking the EIA in relation to projects requiring development consent under the 2008 Act.
- 5.6. In accordance with Regulation 10 of the EIA Regulations 2017, an application for a new EIA scoping opinion was made in 2020 (document reference 6.2.6.1), with the scoping opinion being issued by the Secretary of State on 22 December 2022 (document reference 6.2.6.2). In the request for a scoping opinion, the Applicant stated its intention to produce an Environmental Statement, which means the development is EIA Development under Regulation 6(2)(a). This was confirmed in the scoping opinion.
- 5.7. Regulation 11 of the EIA Regulations 2017 concerns the procedure to be undertaken to facilitate the preparation of environmental statements and Regulation 12 relates to consultation requirements, under which an applicant must publicise and consult on preliminary environmental information. In accordance with Regulation 12(2) a *Preliminary Environmental Information Report* ('PEIR') was produced and made available for the purposes of statutory consultation on the emerging proposals that took place between January and April 2022. Details of this and earlier public consultations for the Proposed Development are set out in the Consultation Report (document reference 5.1) that accompanies the DCO application.
- 5.8. Regulation 14(1) states that '*An application for an order granting development consent for EIA development must be accompanied by an environmental statement*'. Regulations 14(2)-(4) set out the requirements for the environmental statement, including its general contents and requirements concerning the professional experience or qualifications of its authors. Schedule 4 sets out further detail of information to be included in ESs. This ES complies with Regulation 14 and Schedule 4.

OTHER RELEVANT PROVISIONS

- 5.9. The Proposed Development is subject to a number of other relevant provisions that control and manage the activities, processes and impacts that will arise as a result of the Proposed Development. These include legislation on nature conservation such as the Wildlife and Countryside Act 1981, and other relevant legislation such as the Water Resources Act 1991. All provisions relevant to the Proposed Development have been identified in the technical chapters of this ES.

NATIONAL PLANNING POLICY

Relevant Policy

- 5.10. For a development of this scale it should be emphasised that a wide range of policy is of

relevance to the Proposed Development. This section of the chapter highlights the main policy considerations relevant to the EIA. Further interrogation of the policy and guidance is set out in each of the technical chapters of this ES, identifying the particular elements of the policy and how they relate to the topic being assessed. The *Planning Statement* (document reference 7.1) that accompanies the DCO application examines the extent to which the Proposed Development complies with relevant planning policy in the round.

National Policy Statement for National Networks – December 2014

- 5.11. The NPS sets out the need and the Government’s policies to deliver the development of NSIPs on the national road and rail networks in England. An applicant seeking a DCO for a project that satisfies the statutory thresholds for an NSIP in the Planning Act 2008 does not have to substantiate a ‘need case’ for the proposal, as the need is established by the NPS. The need for the development of strategic rail freight interchanges in the national interest is specifically set out in the NPS. The NPS does, however, state that *‘it is important that SFRI’s are located near the business markets they will serve’*. This consideration is addressed in the Market Needs Assessment (document reference 16.1).
- 5.12. In issuing the NPS the Government is satisfied that the policy *‘strikes the best balance between the Government’s economic environment and social objectives’* (NPS paragraph 1.11). Necessarily, as national policy guidance, the NPS sets *‘high level policy rather than specifying locations for enhanced or new infrastructure’*.

The drivers of need for development of the national networks

- 5.13. The underlying intent of Government policy is to deliver national networks that meet the country’s long-term needs, supporting a prosperous and competitive economy and improve overall quality of life as part of a wider transport system. To achieve these objectives, the features to be secured from new national networks are set out at NPS paragraphs 2.1 – 2.9 and include:
- Well-connected and high-performing networks with sufficient capacity which are vital to meet the country’s long-term needs and support a prosperous economy.
 - Critical need to improve the national networks to address road congestion to provide safe, expeditious and resilient networks that better support social and economic activity, and to provide a transport network that is capable of stimulating and supporting economic growth.
 - A need for the development on the national networks to support national and local economic growth and regeneration, particularly in the most disadvantageous areas – helping to rebalance the economy.
 - A need to improve the integration between the transport modes, including the linkages to ports and airports.

- 5.14. The Government concludes:

‘that at a strategic level there is a compelling need for development of the national networks ... The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis’ (NPS paragraph 2.10).

- 5.15. Subject to the detailed policies and protections in the NPS (and the legal constraints of the Act referred to above) ‘there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in this NPS’.

The national need for Strategic Rail Freight Interchanges

- 5.16. The NPS remains an up-to-date statement of national planning policy for national networks. The NPS states:

‘Over recent years rail freight has started to play an increasingly significant role in logistics and has become an important driver of economic growth’(paragraph 2.42).

- 5.17. The NPS acknowledges that rail is used to best effect to undertake the ‘long haul primary trunk journey with other modes (usually road) providing the secondary (final delivery) leg of the journey’.

- 5.18. The NPS states:

‘The aim of a strategic rail freight interchange (SRFI) is to optimise the use of rail in the freight journey by maximising rail trunk haul and minimising some elements of the secondary distribution leg by road, through co-location of other distribution and freight activities. SRFIs are a key element in reducing the cost to users of moving freight by rail and are important in facilitating the transfer of freight from road to rail, thereby reducing trip mileage of freight movements on both the national and local road networks’.

- 5.19. The NPS refers to the fact that ‘users and buyers of warehousing and distribution services are increasingly looking to integrate rail freight into their transport operations...’. Thereafter it is stated:

‘This requires the logistics industry to develop new facilities that need to be located alongside the major rail routes, close to major trunkroads as well as near the conurbations that consume the goods’.

- 5.20. Optimising the use of rail requires the ‘logistics industry to develop new facilities that need to be located alongside the major rail routes close to major trunk roads, as well as located near to the conurbations that consume the goods’.

The drivers of need for SRFIs

- 5.21. The drivers of need for SRFIs are set out at NPS paragraphs 2.46 – 2.52 under the headings:

- The changing needs of the logistics sector;

- Rail freight growth;
 - Environmental;
 - UK economy, national and local benefits – jobs and growth.
- 5.22. The Government’s policy for addressing the need for SRFIs is set out at NPS paragraphs 2.53 – 2.58 and may be summarised as follows:
- the Government’s vision for transport is for a low carbon sustainable transport system that is an engine for growth, but is also safe and the quality of life in our communities.
 - it is important to facilitate the development of intermodal rail freight industry.
 - the transfer of freight from road to rail has an important part to play in a low carbon economy, and in addressing climate change.
 - a network of SRFIs is needed across the regions to serve regional, sub-regional and cross-regional markets.
 - in all cases it is essential that SRFIs have good connectivity with both the road and rail networks, in particular the strategic rail freight network.
- 5.23. The NPS states that it is important that SRFIs are located near the business markets they will serve – and linked to key supply chain routes. SRFI capacity needs to be provided at a wide range of locations to provide flexibility needed to match the changing demands of the market, possibly with traffic moving from existing RFIs to new and larger facilities.
- 5.24. The Planning Statement (document reference 7.1) addresses the policy considerations set out in the NPS, other planning policy that is relevant in the context of the specific proposal for the HNRFI, and draws upon supporting documentation and assessments, including the analysis undertaken in the Market Needs Assessment (document reference 16.1). This assessment explains the market which HNRFI will serve and, in response to comments made during the Statutory Consultation, explains how this market is not sufficiently served by existing and committed SRFIs.

Requirements of the NPS

- 5.25. Chapter three of the NPS summarises government policy on national networks, including the need to take into account the positive and negative social and environmental impacts of transport infrastructure and the government’s general approach to safety, the reduction of emissions and the uptake of new transport and traffic management technology.
- 5.26. Chapter four of the NPS identifies assessment principles for road and rail infrastructure. Chapter five sets out the general policy in respect of the assessment, mitigation and examination of generic impacts, including air quality, carbon emissions, biodiversity, landscape, noise, flood risk and the wider impact on transport networks.

5.27. The topic based chapters (chapters 7-19, document references 6.1.7 – 6.1.19) of this ES show how the EIA has applied these principles in the assessment of environmental effects arising from the Proposed Development. Section 104 of the 2008 Act requires the Secretary of State to have regard to any NPS that has effect in relation to development to which the application relates.

National Policy Statements for Energy – July 2011 and subsequent review

5.28. Although not an Energy NSIP, a critical component of the Proposed Development is the development of energy infrastructure. This infrastructure includes the provision of roof-mounted photovoltaic arrays with a generation capacity of up to 42.4 megawatts (MW) providing direct electricity supply to the buildings or exporting power to battery storage in the energy centre, and also includes provision of an energy centre, incorporating an energy substation connected to the local distribution network, battery storage and a gas-fired combined heat and power plant (designed to be ready for 100% hydrogen in the grid gas supply) with an electrical generation capacity of up to 5MW. With these energy facilities in mind, the ES and the application for the HNRFI DCO has had regard to the suite of energy NPS's which set out policy for overarching energy development and renewable energy. The application has also had regard to the emerging suite of Energy NPS's which have been reviewed by the Government as a result of the Energy White Paper. These draft Energy NPS's aim to reflect the policies and broader strategic approach set out in the White Paper and ensure that we continue to have a planning policy framework which can support the infrastructure required for the transition to net zero and are a material policy consideration. The energy context is addressed in more detail in chapter 18: Energy and climate change (document reference 6.1.18).

National Planning Policy Framework

5.29. The Government's planning policies for England are set out in the National Planning Policy Framework (NPPF). The NPS states that the NPPF is likely to be an important and a relevant consideration in decisions on NSIPs, but only to the extent relevant to an individual project.

5.30. NPPF paragraph 5 advises that:

'The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.'

5.31. The overall aims of the NPPF and NPS are consistent. The NPS assumes the function of providing specific policy guidance and to 'provide transport policy which will guide individual development bought under it'. The NPS provides guidance on other land use planning matters and imposes particular requirements including the consideration of

environmental impacts. The fundamental objective is to achieve sustainable development.

5.32. The NPPF requires decisions to play an ‘active role in guiding development towards sustainable solutions’, but in doing so to take local circumstances into account to reflect ‘the character, needs and opportunities of each area’. The policy guidance from the following sections of the NPPF are material to the assessment of the Proposed Development and the table below highlights where they have been taken into account in the ES.

Table 5.1: NPPF chapters of relevance to the design and EIA of the HNRFI and where they are addressed in the ES

NPPF chapter	ES Chapter(s) of relevance <i>With document reference numbers in parentheses</i>
Chapter 6 – Building a strong competitive economy	Chapter 7 - Land use and socio-economic effects (6.1.7)
Chapter 8 – Promoting healthy and safe communities	Chapter 7 - Land use and socio-economic effects (6.1.7) Appendix 7.1 – Health and Equality Briefing Note (6.2.7.1) Chapter 8 – Traffic and transport (6.1.8) Chapter 9 – Air quality (6.1.9) Chapter 10 – Noise and vibration (6.1.10) Chapter 11 – Landscape and visual impact (6.1.11) Chapter 14 – Surface water and flood risk (6.1.14) Chapter 15 – Hydrogeology (6.1.15) Chapter 16 – Geology, soils and contamination (6.1.16)
Chapter 9 – Promoting sustainable transport	Chapter 8 – Transport and traffic (6.1.8)
Chapter 11 – Making effective use of land	Overarching theme

NPPF chapter	ES Chapter(s) of relevance <i>With document reference numbers in parentheses</i>
Chapter 12 – Achieving well-designed places	Overarching theme
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change	Chapter 14 – Surface water and flood risk (6.1.14) Chapter 18 – Energy and climate change (6.1.18)
Chapter 15 – Conserving and enhancing the natural environment	Chapter 11 – Landscape and visual effects (6.1.11) Chapter 12 – Ecology and biodiversity (6.1.12)
Chapter 16 – Conserving and enhancing the historic environment	Chapter 13 – Cultural heritage (6.1.13)

- 5.33. Where relevant topic based guidance for National Planning Practice Guidance has also been considered, this is addressed further in the technical chapters of this ES.
- 5.34. The presumption in favour of sustainable development, that lies at the heart of the NPPF ties together economic, social and environmental objectives. The design of the HNRFI has adopted a similar approach and as such sustainable development considerations are inherent in the ES.

LOCAL PLANNING POLICY

- 5.35. Local Plans can be an important reference source for the preparation of an EIA. Amongst other things they can enable the team to identify:
- environmental objectives, constraints and data sources;
 - land and features subject to protective environmental designations;
 - future development of socio-economic significance that should be taken into account in the assessment of cumulative effects; and
 - environmental management strategies.

- 5.36. The Proposed Development covers a number of local authority administrative boundaries, which include:
- the Main HNRFI Site lies wholly within Blaby District;
 - the A47 Link Road lies partly within Blaby District and partly within Hinckley and Bosworth Borough;
 - the offsite highway mitigation works are located within Blaby District, Hinckley and Bosworth Borough, Harborough District and Rugby Borough; and
 - The Main HNRFI Site and A47 Link Road are located within Leicestershire County Council for the purposes of highways, minerals and waste policy.
- 5.37. This section identifies the local plans for the above-named authorities that have been consulted during the preparation of the EIA for the HNRFI. An overview of these plans is provided in the sections below. The extent to which the Proposed Development complies with development plan policies is considered in the *Planning Statement* (document reference 7.1) that accompanies the DCO application.
- 5.38. The authorities are at various stages of progressing new local plans for their jurisdictions. Policies in emerging development plans may be given weight as a material consideration depending on the stage of plan preparation, the extent to which there may be unresolved objections and the degree of consistency with national planning policies. The emerging plans may have progressed beyond the consultation stage at the examination of the DCO for the HNRFI. The provisions of any later published stages of the local plan and the assessment of the policy statements will be considered as appropriate.

Blaby District

- 5.39. Blaby District Council (BDC) is a district level authority and the local planning authority. Responsibilities for highways, minerals and waste remain with the Leicestershire County Council (LCC).
- 5.40. The development plan for Blaby District comprises:
- The Local Plan Core Strategy (adopted February 2013), which sets out the vision, objectives, strategy and core policies up to 2029;
 - the Local Plan Delivery Development Plan Document (DPD) (adopted February 2019), which includes site allocations and development management policies;
 - the Leicestershire Minerals and Waste Local Plan (adopted 2019) for the period up to 2031; and
 - the Fosse Villages Neighbourhood Plan (made June 2021).
- 5.41. During January to March 2021, BDC published the Regulation 18 consultation draft of the new local plan for the period of the next 15 years.

Hinckley and Bosworth Borough

- 5.42. Hinckley and Bosworth Borough Council (HBBC) is a district level authority and the local planning authority. Responsibilities for highways, minerals and waste remain with Leicestershire County Council (LCC).
- 5.43. The development plan within Hinckley and Bosworth comprises:
- the Core Strategy DPD (adopted 2009) for the plan period to 2026;
 - the Site Allocations and Development Management Policies DPD (adopted July 2016); and
 - the Leicestershire Minerals and Waste Local Plan (adopted 2019) for the period up to 2031.
- 5.44. Other statutory development plans adopted by HBBC are not relevant to the Proposed Development, namely Hinckley Town Centre Area Action Plan and Earl Shilton and Barwell Area Action Plan.
- 5.45. In June 2021 HBBC published the Regulation 18 consultation draft plan for the period 2020 – 2030 and the Regulation 19 Plan was published in February 2022. The Council has since delayed the submission of the Local Plan until later in 2023 following receipt of legal advice.

Harborough District

- 5.46. Harborough District Council (HDC) is a district level authority and the local planning authority. Responsibilities for highways, minerals and waste remain with LCC.
- 5.47. The relevant part of the development plan within Harborough District comprises:
- Harborough Local Plan 2011-2031 (adopted April 2019)
- 5.48. Development associated with the HNRFI within Harborough is confined to highway improvements at the Cross in Hand roundabout off the A5 with the A4303 (Lutterworth Road).

Rugby Borough

- 5.49. Rugby Borough Council (RBC) is a district level authority and the local planning authority. Responsibilities for highways, minerals and waste remain with Warwickshire County Council (WCC).
- 5.50. The relevant part of the development plan within Rugby Borough comprises:
- The Rugby Borough Local Plan (adopted June 2019)
- 5.51. Development associated with the HNRFI within Rugby is confined to highway

improvements at the Cross in Hand roundabout, as highlighted in the section above.

Leicestershire Minerals and Waste Local Plan

5.52. The Leicestershire Minerals and Waste Local Plan was adopted in September 2019. The Local Plan addresses the need to provide protection to the environment and the amenity of local residents, whilst ensuring a steady supply of minerals and the provision of waste management facilities.

NON-STATUTORY DOCUMENTS

5.53. In addition to the statutory planning documents described in the sections above, there are a number of other non-statutory documents that provide the planning context for the HNRFI, which include:

- Leicester and Leicestershire Growth Plan December 2018
- Blaby District Growth Plan 2018
- Warehousing and Logistics in Leicestershire: Managing growth and change, April 2021
- Midlands Connect Transport Strategy, January 2021
- The National Infrastructure Strategy, November 2020
- Great British Railways: The Williams-Shapps Plan for Rail, May 2021
- The Net Zero Strategy, October 2021 (updated in April 2022)
- Decarbonising Transport, July 2021, and the one-year-on review in July 2022
- The Future of Freight: A Long Term Plan, June 2022

5.54. The provisions of these documents are addressed in the *Planning Statement* (document reference 7.1).

5.55. With respect to environmental impacts of freight logistics and associated infrastructure, the key national policy and strategy documents place a substantial emphasis on reducing greenhouse gas emissions.

5.56. This is the focus of the Decarbonising Transport strategy, which set ‘Decarbonising how we get our goods’ as its third strategic priority and which states that the strategy ‘...will support and encourage modal shift from road to more sustainable alternatives, such as rail...’ alongside setting out a range of policy measures to decarbonise road HGV haulage and other transport modes. This language is consistent with the UK’s Net Zero Carbon Strategy, which likewise discussed policy measures to phase in zero-emission road and rail haulage, incentivise early take-up of low carbon traction by the rail freight industry, build

extra capacity on the rail network and set a rail freight growth target in support of the UK's net zero goals.

- 5.57. 'Cleaner, greener railways' including opportunities for decarbonisation, air quality and biodiversity improvements are theme six of the Williams-Shapps white paper, together with a 'new offer for freight' on the national rail network.
- 5.58. The National Infrastructure Strategy provided for substantial investment in the rail network. It discussed the air pollutant and carbon impacts of road transport, and indicated that decarbonising road transport is vital for meeting the UK's carbon budgets and cleaning up the UK's air.
- 5.59. More broadly, the National Infrastructure Strategy and the white papers for transport and freight refer to the need to deliver good environmental outcomes when planning for national infrastructure, including rail freight and logistics infrastructure. This encompasses aspects such as air and water quality, ecosystem services and human health and wellbeing.
- 5.60. Chapter 18 *Energy and Climate Change* of the ES (document reference 6.1.18), assesses greenhouse gas (GHG) emission impacts, climate resilience and further discusses relevant policy. Other ES topic chapters assess impacts on air quality, ecology, water and the other environmental themes of the national strategy and policy documents.

SUMMARY

- 5.61. The legislation and policy provisions relevant to the assessment of the HNRFI's environmental effects have been summarised here to provide the context for the ES. They are addressed in detail in the topic-based chapters of this ES, chapters 7-19 (document references 6.1.7-6.1.19).
- 5.62. The *Planning Statement* (document reference 6.1.7) that accompanies the DCO application seeks to address the policy considerations and demonstrate how the Proposed Development meets legislation and policy requirements. The *Planning Statement* also undertakes the planning balance evaluation of the merits of the HNRFI against the residual environmental impacts (as it is not the role of the planning balance to be considered in the ES).