



National Highways Planning Response (NHPR 22-12) Formal Recommendation to an Application for Planning Permission

From: Victoria Lazenby (Regional Director)
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To: Hinckley Borough Council; and Rugby Borough Council

CC: transportplanning@dft.gov.uk
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Hinckley & Bosworth Borough Council Reference: 23/01023/HYB
Rugby Borough Council Reference: R23/1047

Location: Land East of Stretton Croft, Wolvey Road, Burbage, Leicestershire, LE10 3JB

Proposal: Construction of motorway service area (MSA) comprising of vehicular and pedestrian access from the A5, petrol filling station for domestic vehicles, HGV filling station, Main PFS / Services building, drive thru unit, EV charging spaces, customer parking spaces including HGV, coach and caravan provision, landscaping including picnic and dog walking areas, electric substations and retaining walls at south/western boundary fronting the M69 (Cross boundary application)

National Highways Ref (HBBC): NH/23/03562
National Highways Ref (RBC): NH/24/04508

Referring to the consultation on a planning application referenced above, in the vicinity of the **M69 Motorway and A5 trunk road** that form part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:

- ~~a) offer no objection (see reasons at Annex A);~~
- ~~b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways recommended Planning Conditions & reasons);~~
- c) recommend that planning permission not be granted for a specified period (see reasons at Annex A);

~~d) recommend that the application be refused (see reasons at Annex A)~~

Highways Act 1980 Section 175B is not relevant to this application.¹

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the [Town and Country Planning \(Development Affecting Trunk Roads\) Direction 2018](#), via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

The Local Planning Authority must also copy any consultation under the 2018 Direction to PlanningM@nationalhighways.co.uk.

Signature:

Date: 28 June 2024

Catherine Townend

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¹ Where relevant, further information will be provided within Annex A.

Annex A National Highway's assessment of the proposed development

This response represents our formal recommendations and has been prepared by Catherine Townend, Spatial Planner for National Highways. The main body of this letter provides an update to our previous response(s) and sets out our current position. Appendix 1 of this letter sets out further responses to matters raised in the DTP letter of 5 June 2024.

National Highways (formally Highways England) has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

National Highways considers planning applications for new developments under the requirements of the National Planning Policy Framework (NPPF) and DfT Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development ("the Circular"). The latter document sets out our policy on sustainable development and our approach to proposals which may have an impact on our network.

The SRN in the vicinity of the proposed development is the M69 Motorway and A5 trunk road.

Development Proposal

The Site, measuring 10.36 hectares of undeveloped land straddles the administrative boundaries of Hinckley & Bosworth Borough and Rugby Borough Councils. It is located immediately to the northwest of the M69 Junction 1 circulatory and A5 interchange (sometimes referred to as Stretton Baskerville junction). The Site shares a common boundary with the M69 northbound exit slip road, the junction circulatory (roundabout), and the A5 northbound carriageway.

National Highways understands that Full planning permission is sought by Welcome Break as the Applicant/Landowner for the construction of a motorway service area (MSA) to serve users of the M69 motorway. Access into the Site however, is located on the adjacent A5 trunk road.

Background

The Site currently benefits from (unimplemented) planning approval for a roadside (trunk road) services and employment site.

Hybrid Planning Permissions LPA Ref's R20/0422 (Rugby Borough Council) and LPA Ref. 20/00531/HYB (Hinckley and Bosworth), approved in August 2022, allowed for the provision of a mixed-use development including a roadside facility comprising a petrol filling station, drive through restaurant (Class A1/A3/A5 (now Class E)) with new vehicular access (via A5 Watling Street), together with internal roads, car/cycle parking at the Site. The Hybrid planning application also included Outline consent for the erection of class B1 and flexible class B1/B2/B8 units with access via the A5.

We acknowledge that this planning application makes reference to the planning permission mentioned above. However, whilst this proposal contains some similarities with the existing proposal, there are fundamental differences between a trunk road (i.e. A5) roadside facility and a motorway service area. In addition, some of our policies, standards, and procedures have changed in the intervening years since the previous development was considered. As such, this planning proposal will be assessed on its own merits in line with our current policies, design standards and procedures.

Need for a Motorway Service Area

Roadside facilities perform an important safety function by providing opportunities for the travelling public to stop and take a break during the course of their journey. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours.

The network of signed roadside facilities on the SRN is intended to provide opportunities to stop at intervals of approximately half an hour. However, the timing is not prescriptive as travel between services may take longer on congested parts of the SRN. On this basis, the maximum distance between signed motorway service areas should be 28 miles. In locations on the SRN where drivers would have to drive in excess of 28 miles between roadside facilities, a need for a new MSA can be established.

It is for the promoters of new facilities to demonstrate to the determining authority that a need for a new facility at the proposed location exists. There are currently no motorway service areas serving the M69 motorway. However, this does not automatically denote the need for such a facility. As referenced in the Applicant's Planning Statement, the closest existing services to the Site comprise the M1 Leicester Forrest East Services (12 miles from the Site) and the M6 Corley Services (14 miles from the Site).

Given that the above-mentioned services are within 28 miles of the Site, our previous responses concluded that a need for a new MSA at this location had not been demonstrated by the Applicant based on the 28-mile criteria.

Notwithstanding the above, and as per our previous responses it is recognised that on certain parts of the SRN, a shortage of parking facilities for HGVs can make it difficult for drivers to find safe space to stop and adhere to requirements for mandatory breaks and rests. As such, in areas where there is an identified need for HGV parking (informed by [DfT's National Lorry Parking Survey](#)), the maximum distance between facilities providing HGV parking should be no more than 14 miles.

The Applicant has demonstrated that the proposed development is in excess of 14 miles from the nearest MSA but has given no indication of the distance to all types of motorway HGV parking facilities (being service areas, rest areas or truckstops). Whilst DfT's Lorry Parking Survey *does* indicate that the East Midlands is in critical need of more HGV parking, the Applicant should identify the distances to the nearest HGV parking based on all type of HGV parking facilities. The Applicant has not done this. Without further evidence to support the Applicant's case, the need for an MSA at this location is therefore not established.

Notwithstanding the above, National Highways will not object to proposals where a need has not been established as there is no minimum distance between these facilities. However, to protect the safety and operation of the SRN, the access/egress arrangements of facilities must comply with the design requirements as set out in the Design Manual for Roads and Bridges (DMRB) which includes provisions in respect of junction separation.

Minimum Requirements for a Motorway Service Area

All roadside facilities that are accessed directly from a motorway or motorway junction must be signed for safety reasons. DfT Circular 01/2022 (Annex A, Table 1) sets out the minimum requirements that these facilities must meet to be eligible for signing.

National Highways will not support proposals for roadside facilities adjacent to a junction with a motorway that would not meet the minimum requirements for signing as these can prevent or reduce the provision of more appropriate facilities.

On-line (between junctions) service areas are preferred because they are more accessible to users of the SRN and as a result more conducive to encouraging drivers to stop and take a break. They also help to avoid an increase in traffic demand at junctions with all-purpose roads.

However, where an on-line service area cannot be delivered due to planning, safety, operational or environmental constraints, the development of a site that shares a common boundary with the highway at a junction with the SRN, and which provides the mandatory requirements to be eligible for signing is preferred to the continued absence of facilities where a need has been demonstrated.

The proposed development would constitute an off-line motorway service area as it is located at an existing junction (M69 Junction 1). As the Site shares a common boundary with the highway at a junction with the SRN, its location would meet the criteria for a signed motorway service area providing that the minimum requirements for an MSA are also met.

As per DfT Circular 01/2022, as a minimum, motorway service areas must:

- Be open 24 hours per day, 365 days per year;
- Include free parking for a minimum of 2 hours for all vehicles;
- Include provision of security monitoring equipment including appropriate lighting and CCTV systems;
- Have free-to-use toilets with hand washing facilities, and at least 1 changing places toilet and 1 for people with disabilities;
- Include shower and washing facilities for HGV drivers (separate provision for men and women);
- Include the provision of fuel for petrol and diesel vehicles and EV chargepoints;
- Serve hot drinks and cooked hot food for purchase during all opening hours and for consumption on the premises;
- Include access to a free-of-charge telephone for emergency use, Wi-Fi and power points available for device charging;
- Have adequate levels of parking for different vehicle types supported by a demand-based calculation (DfT Circular 01/2022, Annex A Table 2).

Our February 2024 response set out that National Highways had reviewed the submitted documents to ascertain if the proposal meets the minimum requirement for an MSA. Following this review, we considered that further information was required as set out below:

Fuel Provision

This point is now considered satisfactorily addressed as per our May 2024 response.

CCTV

The updated Site Layout Drawing still does not explicitly identify locations for the provision of security monitoring equipment (i.e. CCTV). Nonetheless we are content that details of CCTV can be provided at a later stage and its provision can be a condition of any planning consent.

Parking Provision

It was previously noted that the proposal included the provision of a total of 269 parking bays for cars and light goods vehicles. This included 36 EV charging bays and 17 disabled bays. 11 dedicated staff parking bays were included in this number. In addition to this number, the proposal included 10 motorcycle bays, 29 HGV bays, 8 caravan bays, and 6 coach bays.

As per our previous response, DfT Circular 01/2022 Annex A sets out the minimum required parking provision for different vehicle types. These should be calculated based on a proportion of traffic flows for which the development would serve. In calculating this, the most recent complete year data should be used to identify the

peak monthly traffic flow, which should then be averaged to find the daily flow for the different vehicle types.

As set out in the Transport Assessment, the Applicant had used the latest traffic flow data from the nearest DfT count point on the M69 (count point 46056), to calculate the minimum required number of spaces. Our previous responses noted that there was no mention of a count point for the A5 and we therefore requested that flows for the A5 should also be included when determining parking provision and trip generation.

The DTP letter of 6 June 2024 now sets out that flow data for the A5 has also been used to determine parking level requirements. We welcome this. As per our previous responses, we request that the Applicant provide the raw flow figures that have been used so that we can verify these.

Our February 2024 responses stated the East Midlands is an area of need for HGV parking and therefore a higher rate of 1% (of HGV flows) should be used to calculate the required HGV parking provision. Following on from this, the Applicant re-calculated HGV parking provision based at a rate of 0.75% given that only half the site is located in the East Midlands. Our May 2024 response considered this calculation to be reasonable. Parking for one abnormal load was also included in the revised site layout drawing as per our request.

Our previous response also queried whether staff parking was sufficient. However, DfT Circular 01/2022 does not set out any requirements for staff parking. As such, we have no further comments to make on this point with respect of the minimum requirements for an MSA.

In light of the above, subject to our verification of the M69 and A5 data counts, we are satisfied that the minimum requirements for an MSA are capable of being met subject to suitability worded planning conditions.

Removal of Layby

The proposed access scheme requires the removal of an A5 layby. The principle of the removal of the layby is acceptable to National Highways given that provision for HGV parking will be provided within the MSA Site. However, the two spaces removed from the layby, should be compensated within the overall parking provision of the MSA. As such, two additional HGV parking spaces should be added to the total number of HGV parking spaces needed to satisfy DfT Circular, Annex A.

The above matter has not been referred to in the April 2024 Technical Note or June 2024 letter. Please could the Applicant advise on this point.

Traffic Impacts

Trip Generation

As per DfT Circular 01/2022, roadside facilities should be well-designed to serve passing traffic. Off-line MSAs can divert traffic onto the nearest junction and surrounding roads increasing the volume of traffic at those locations, whilst there is also a risk to them becoming destinations in their own right. This can adversely affect the safety and operation of the surrounding highway network and consequently the Transport Assessment must show that there would only be a minimal overall increase in trip mileage and that road safety is not compromised.

Given that the current proposal includes signage from the M69 motorway (not part of the existing planning consent), the demand for this roadside facility will increase compared to the previously proposed trunk road services (signed from the A5 only), although it is noted that the previous planning consent included an element of B1/B2/B8 employment use which is now not being proposed.

Following our February 2024 response, we provided a recommendation on how trip generation should be calculated. This is based on calculating the likely 'turn-in' rates, based on comparable sites and flow data. The April 2024 Technical Note, summarised the revised trip rates based on the alternative methodology and the 6th June 2024 letter included the addition of A5 users.

We consider that the trip generation can now be agreed although as per our previous response we still require the raw flow data for our verification.

Travel Plan

Our previous comments on the travel plan are still relevant. However, we are content that an updated Travel Plan can be a condition of any planning consent.

Network Capacity Assessment

Following our review of the Linsig model we have found some discrepancies which need to be clarified and corrected before National Highways can confirm the overall methodology proposed and any impact on the operation of the A5 / M69 roundabout.

LinSig

The following should be addressed before the structure of the LINSIG model can be accepted:

Lane Set Up:

- J1:3 – the flare is located on the nearside, but the drawing of the MSA shows it should be offside.
- J1:2 – as above the flare is shown on the opposing side in the drawing.

- The pedestrian crossing has not been modelled at the MSA junction. This will have an impact on green time for vehicles and will be overestimating the capacity at the junction.
- Arm J2:2 – excess queue limit is set at 12 PCUs but the queue will block the exit arm at around 7 PCUs.
- A speed of 40mph has been used for all connectors however time is the preferred method. 40mph may be too high for some movements.

Lane Length:

- Arm J4:1 – 60 PCUs exceeds the length of the slip road.
- Arm J5:1 – Lane 3 should not be 60 PCUs as the carriageway is single and flares to two then three lanes on the approach.
- Arm J7:1 (Lane 2) – 60 PCUs exceeds the length of the slip road.

Saturation Flow:

- It is unclear how the radii has been calculated at A5/M69 roundabout. Infinite radii should not be used at a roundabout as this over estimates saturation flow and therefore capacity.
- Circulatory saturation flow should be directly input – bottle neck throughout the circulatory as saturation flow is lower than previous arm.

Signals:

- It is unclear if traffic signal specifications for the junction been used to input intergreens, cycle times, etc. Confirmation of how these have been calculated should be provided.

Other:

When running the model, it must be ensured that any queuing on the internal arms is contained within the physical length of the lane, and does not block upstream junctions, with any excess queueing on the external approaches, this will ensure the free flow of the junction and prevent “blocking up”.

Based on the above discrepancies or uncertainties, National Highways cannot yet comment on the results of the LinSig model so the traffic impact on the SRN is not yet understood. To expedite our further review and to avoid any abortive work we recommend the model files and calculation sheets are provided for National Highways’ audit process so that we can hopefully agree the structure of the model prior to the more detailed junction assessment being undertaken.

Merge/Diverge assessment

Our 19 February 2024 response requested more information. We do not appear to have received anything further. As such, our previous comments are still relevant.

Access

Access to the Site for vehicles and pedestrians is proposed to be taken from the A5 Watling Street approximately 170m south of Wolvey Road (south) junction and 200m north of the Stretton Baskerville Interchange (M69 Junction 1). The A5 Watling Street at this location is subject to the national speed limit (60mph).

Whilst it is firstly important to agree the above mentioned LinSig assessment to ensure the capacity of the proposed new junction is sufficient, our previous response highlighted that National Highways would need to determine that the proposed access is safe and suitable for the development being proposed. In addition, it was highlighted that our policies and procedures have changed since the previous planning application was considered, and that the new submission would have to follow our updated policy and procedures.

In that regard, the proposed Site Access arrangement (Appendix 5 of the April 2024 Technical Note) does not meet our requirements as drawings must be designed to a preliminary standard in accordance with the Design Manual for Roads and Bridges (DMRB). This was highlighted in our previous responses where we referred the Applicant to our planning guide: [Planning for the Future: A Guide to Working With National Highway on Planning Matters \(October 2023\)](#).

Specifically, the preliminary site access drawing and associated documentation should include:

- Identification of scheme extents.
- Sufficient engineering drawings with dimensions showing compliance with DMRB requirements in both plan, cross, and long sections.
- Topographical survey data.
- A document explaining the design rationale to include:
 - o Design standards used and how the scheme complies with them
 - o Identification of departures, relaxations and deviation from recommendations (see DMRB GG 101)
 - o Justification for design decisions, including supporting data where necessary e.g. design speed etc.
- Early consideration of scheme constructability.

Prior to the submission of the above however, the Applicant should note the following:

Electricity Pylon

The proximity of the existing electricity pylon along the eastern boundary of the development site suggests works forming the A5 junction diverge would be within the 8m exclusion zone. This requires clarification and National Grid acceptance before further consideration of the scheme is undertaken.

Once the preliminary documentation has been agreed, as per our planning guide and previous response, completion of the following prior to planning consent should also be noted:

- A Walking, Cycling, Horse-riding, Assessment and Review (WCHAR) in accordance with DMRB GG142.
- A Stage 1 Road Safety Audit (RSA) in accordance with DMRB GG119.
- Agreement in Principle (AiP) obtained for any departures from standard.
- Screening for an Equality Impact Assessment (EqIA) in accordance with DMRB GG101
- A Safety Risk Assessment in accordance with DMRB GG142 (in certain circumstances only).

In relation to the proposed new junction on the A5, the Applicant should also note the following:

Changes within the highway boundary

In relation to changes within the highway boundary, the Applicant should also note the following to be submitted and agreed with National Highways. However, we are content that they can be provided post-planning consent through our detailed design and technical approvals process:

- A drainage strategy for the highway alterations to include method of collection, attenuation, pollution control and discharge.
- A signing strategy and details of proposed signage, showing the locations, general sign face designs, overall dimensions, and to pursue structural approvals (where necessary) in accordance with TSRGD, TSM, and DMRB requirements.
- Details of the proposed signal post, control box, maintenance bay locations together with timings, phases and intended operation of the signals.
- Details of the proposed extent of street lighting and location of columns and feeder pillars.
- Pavement drawings showing areas of existing and proposed highways construction, to include areas requiring full construction; areas requiring resurfacing and areas requiring relining and the condition of the wearing course.
- Plans showing if and where VRS is required, in accordance with DMRB CD 377. For the avoidance of doubt, this includes the proposed advance direction signs and any hazards within or adjacent to the highway that warrants the installation of VRS.
- A Maintenance Repair Statement (MRS) in accordance with DMRB GD 304 and a plan to show the maintainable boundary of the scheme.
- A Traffic Regulation Order (TRO) will be required to reduce to speed limit from 60 to 40 mph as per the Transport Assessment.

Swept Path

Following our previous response a Swept Path drawing for an abnormal load has now been provided (Appendix 4 of the April 2024 Technical Note). On first inspection, the swept path looks acceptable. However, we will undertake a full review of the swept path drawing following the acceptance of the LinSig assessment and upon receipt of the preliminary site access drawing (mentioned earlier).

Boundary Matters

Site Layout

Given the Site is accessed directly from the SRN, National Highways will need to consider the layout of the Site to ensure that any conflict points or congestion within the Site will not result in queuing back onto the SRN. This has been referred to our safety team for further comment.

Redline

The redline, denoting the legal boundary for the proposed development, does not appear to include the full extent of proposed junction works on the A5 trunk road. The red line boundary will need to be updated showing the full extents of the development proposal including works within the highway boundary.

Flood Risk

There is a watercourse (Soar Brook) along the southern boundary of the site, adjacent to the M69 NB off slip and M69 J1 circulatory carriageway. The watercourse flows west-east underneath M69 J1 via a culvert downstream of the development site.

With reference to the Flood Risk Assessment, the site is located within Flood Zone 1. The M69 J1 culvert has been assessed as having capacity to accept a 1 in 1000-year storm event. However, the site is known to have shallow ground-water levels and has limited potential for infiltration due to the soil composition.

The Proposed Site Layout also shows regrading of the development site along the southern/eastern boundary adjacent to the watercourse, which may force extreme event flood waters onto the M69 north-bound exit slip as it appears to be at a lower level than the proposed development. Considering the above, we have referred this to our flood champion for further comment.

Drainage

As noted above, there is a watercourse (Soar Brook) along the southern boundary of the site, adjacent to the M69 NB exit slip and M69 J1 circulatory carriageway. The watercourse flows in a west-east direction underneath the M69 J1 via a culvert situated downstream of the development site.

The Drainage Strategy proposes an outfall to the watercourse within the development boundary. It should be noted, with reference to the Sustainable Drainage Statement, the site is currently undeveloped greenfield site with no formal drainage system. There is evidence of a ditch along the western boundary of the site, which connects to the watercourse; however, as the site falls in a south-easterly direction, it is likely the western ditch serves adjacent farm land. There is also the suggestion that land to the north (Stretton Croft) may outfall surface and foul water across the development site where infiltration occurs or (when exceeded) surface water runs-off into Soar Brook.

As the watercourse is an 'ordinary watercourse' which passes across National Highways' land, common law riparian ownership rights and responsibilities rules apply. This makes clear that a downstream landowner is only required to accept water in its 'natural state' (defined as spring water, ground water or run-off). Water is not considered to be in its natural state if it has passed over a paved area or through a drainpipe etc. hence interfered with by human activity. The MSA nature of the development could also lead to pollution of the watercourse, which is another factor for our consideration.

The Sustainable Drainage Statement suggests foul drainage is proposed to connect to the 225mm diameter public sewer system located Rufford Close (manhole #9301) – to the north of the A5. This would involve a privately maintained pumping station and works within the SRN, which could be disruptive during the construction phase and may present long term liabilities for National Highways.

In light of the above concerns, we are seeking further advice from our drainage experts and shall have further comments in due course.

External Lighting

From a review of the external lighting assessment accompanying the planning application there appears to be excessive light spill along the eastern boundary of the development site, leading to the potential for light trespass onto the adjacent A5 highway in excess of 1 Lux. As a result, we have referred this to our Environment and Street Lighting engineers for further comment.

Boundary Treatments

All boundary treatments and landscaping should be positioned entirely within the red line boundary of the site and far enough within the site that it can be installed and maintained without encroachment onto National Highways land. This applies to fences and all vegetation for the duration of their life. We are awaiting additional

comments on boundary treatments from our environmental team and will provide these in due course.

Ground Impact / Geotechnical matters

The proposed development involves the regrading of the site in close proximity of the highway boundary. With reference to the Proposed Site Layout plan, the eastern edge of the development will be on a raised plateau relative to the adjacent A5 and M69 J1 circulatory carriageway and includes the installation of a retaining wall.

Anticipated impacts on our network include geotechnical, drainage, and cross-section impacts. For instance, it would appear the base of the plateau supporting slope is too close to the highway boundary to allow for drainage and a maintenance berm.

Noting the above, the proposed layout is unlikely to be acceptable – requiring a buffer zone between earth works and the public highway. We would refer the Applicant to DMRB CD 127 and CD 622 to determine the size of the buffer zone required. Alternatively, the Applicant may prefer an alternative ground retaining feature.

National Highways should be consulted on any revisions to the layout.

Utilities

There is no information accompanying the planning application discussing connections, protections, diversions or enhancements to public utilities required by the development, including the proposed junction and how they may affect the SRN. Further information on this is therefore sought.

Construction Impact

Given the scale and proximity of the development to the SRN, National Highways should be consulted on a Construction Environmental Management Plan (CEMP) to include construction traffic impact and construction access. We are content however, that this could be provided post-planning consent.

Summary and Recommendation

In summary, insufficient information has been submitted with this planning application to demonstrate that the proposal is acceptable to National Highways as the highway authority for the M69 motorway and A5 trunk road.

In light of the above, we recommend that this application not be determined for a period of three months from the date of this letter. This is to give the Applicant sufficient time to provide the outstanding information as requested.

Standing advice to the local planning authority

The Climate Change Committee's [2022 Report to Parliament](#) notes that for the UK to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel. The NPPF supports this position, with paragraphs 73 and 105 prescribing that significant development should offer a genuine choice of transport modes, while paragraphs 104 and 110 advise that appropriate opportunities to promote walking, cycling and public transport should be taken up.

Moreover, the build clever and build efficiently criteria as set out in clause 6.1.4 of [PAS2080](#) promote the use of low carbon materials and products, innovative design solutions and construction methods to minimise resource consumption.

These considerations should be weighed alongside any relevant Local Plan policies to ensure that planning decisions are in line with the necessary transition to net zero carbon.

Appendix 1: National Highways further response to matters raised in DTP letter of 5th June 2024

Paragraph Number	DTP Comment	National Highways response
2	A full timeline of the planning application can be found within the Technical Note (TN) of March 2024 issued by DTP to NH. Pre-application discussions were held with NH in March 2023, with the application submitted in October 2023. Both Local Highway Authorities have confirmed no objection to the proposals.	The timeline is correct. We also understand that the local highway authorities have no objections to the proposals. However, given that the development will be signed and accessed from the SRN, National Highways are required to undertake a closer scrutiny.
3	A number of responses were received from NH in the 12 months subsequent to submission of the application, with significant differences in the advice provided within each response, as detailed within our TN. This letter forms a response to the latest set of comments provided by NH regarding the proposals, dated 8th May 2024.	NH did engage with the Applicant prior to submission and general support to the proposal was given based on information received at the time. However, this should not have been considered an approval in principle. Upon further information submitted and a closer inspection some concerns were raised. NH accepts that the inaccurate parking calculation was not spotted in our first review of the TA and was subsequently spotted and addressed in our updated response.
4	It is disappointing to have received this latest response from NH (dated May 2024) which details a further change in stance and is another fundamental shift in position from NH in relation to this planning application.	No comment.
5	Whilst NH's latest comments are addressed in detail below, we would note that this planning application is currently only being delayed by NH, with both local highways departments involved confirming no objections to the	NH is responsible for the M69 motorway and A5 trunk road. The site is proposed to be accessed from the A5 and to be signed from the M69. As

	proposals. We have to date received a plethora of varying responses and advice from NH in both the 18 months that this application has now been live and through the pre-application advice. The Applicant has confirmed that they will not continue with this unnecessary and protracted process.	such the proposal will have a much greater impact on NH's network compared to the LHA networks and must comply with our policy (DfT Circular 01/2022) in order to be signed from the motorway.
6	It is considered that the behaviour of NH during this application has been wholly unreasonable. An appeal for non-determination of this application will be sought if NH continue to maintain continual and inconsistent unfair changes in position. To that end, working closely with the Local Planning Authority, the Applicant would expect a decision to be made on the application by the end of August 2024.	NH regrets that on occasion, specific details within our responses have needed amending. Nonetheless, we have processes to follow to ensure that the proposal meets our minimum requirements for an MSA, and that any potential impacts on our network are understood. Some of these processes have changed or been introduced since the previous extant planning consent was considered and it may take longer than the Applicant was originally anticipating to resolve all outstanding matters.
7	Background NH acknowledge the extant planning permission at the site for a mixed-use development including employment uses along with a Trunk Road Service Area (TRSA). However, NH state that there are 'fundamental differences' and therefore these proposals will be assessed on their own merits in line with their current policies, design standards and procedures.	This is correct.
8	It is not within NH's gift to attempt to disregard the planning context of the site and ignore established planning case law. Indeed, the Applicant would refer NH to the high court judgement relating to Zurich Assurance Limited V North	NH has no comments to make at this time on planning case law. The current proposal is for a motorway service

	Lincolnshire Council and Simons Developments (case ref. CO/4764/2012), wherein it was established that the fallback planning position is a material consideration. This is further enhanced by the case of Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314. In the latter case it was established that the basic principle is that for a prospect to be a real prospect it does not have to be probable or likely, a possibility will suffice.	area. The requirements for MSA facilities are different to the requirements for trunk road services. Both must satisfy our policy (DfT Circular 01/2022) to be eligible for signing from our network and our policy states that these facilities must be signed for safety reasons.
9	The extant planning permission on the application site (Application Ref. 20/00531/HYB) sets the fallback position of a roadside use on this site, including further details such as approved access arrangements from the A5 and approved trip generation numbers. There are a number of fundamental similarities between the approved trunk-road service area application and the current motorway service area application, and it is disingenuous to suggest that these two proposals are fundamentally different in nature. This includes HGV provision, abnormal load provision and also that, as agreed with the two local highway authorities, the current proposals would result in less peak hour vehicle movements than already permitted.	Yes, there are a number of similarities between the two proposals. The main difference is that the previous proposal would only have been signed from the A5. The current proposal would be signed from the M69 motorway and locations on the Strategic Road Network (SRN) much further afield. This makes the current proposal more attractive to users of the SRN and will change the trip generation and distribution of trips on the surrounding highway network. Following the most recent submission, NH can agree the peak hour vehicle movements based on the presented methodology. We simply ask that the Applicant provide the raw flow data so that we can verify this.
10	As evidenced above by information provided by the Applicant, established case law sets out that an extant consent, whether approved through planning or under the GPDO, is a material consideration as a fallback position. i.e. the extant consent could be implemented resulting in no material difference. Where	As per the above, we have no comments to make on planning case law. Our position is in accordance with our policy, DfT Circular

	there is a realistic fallback position, as is the case here, it's essential that the decision maker compares the effect of a proposal against the effect of what other development could lawfully take place.	01/2022 and is also consistent with the NPPF paragraph 115.
11	NH also suggest that these proposals should be assessed on their own merits due to changes in policy, design standards and procedures. Whilst there may have been an update in the DfT Circular to the latest 01/2022 issue, there were no material changes to the previous Circular regarding roadside services. The relevant design standards have seen no update in this time. Should NH have updated their internal procedures with regard to addressing planning applications, this is not relevant to the planning process.	This is incorrect. The update to DfT Circular contains changes in relation to HGV parking provision for roadside services. This has been one of the material considerations in relation to this application. In addition, our updated processes and procedures now require more scrutiny of physical changes to our network. The previously approved access arrangement did not undergo this level of scrutiny. This will now need to as mentioned in our previous responses. NH will not support proposals where our new procedures have not been followed. Our procedures are to ensure that proposals comply with paragraph 115 of the NPPF so they are very relevant to the planning process.
12	Need for an MSA NH comments suggest that the need for a MSA has not been established based on the 28-mile criteria, given that the distance from the site to M1 Leicester Forrest East and M6 Corley Services are 12 miles and 14 miles from the site, respectively. We trust that NH can acknowledge that the application site does not yet exist and, as such, there is an existing gap between services of 26 miles – notably close to the maximum threshold than appears implied in the comments.	The existing gap between services is 26 miles. Policy (DfT Circular 01/2022) states that a need exists where there is a gap of 28 miles.

13	Indeed, this position is consistent with the recently opened Moto Rugby Services on the M6, J1 which has a distance of 13.5 miles to Welcome Break's Corley Services to the West and 10 miles to Roadchef's Watford Gap Services on the M1, a total of 23.5 miles. Paragraph 76 of the Circular states that "On this basis, the maximum distance between signed motorway service areas should be 28 miles". It is therefore reasonable to state that the 26-mile gap we currently see is towards the 'maximum' threshold.	If there is a distance between MSAs of 28 miles (or more) then a need is established. The Applicant has not established this. Nonetheless, as stated in our previous responses, a 'need' does not need to be demonstrated in order to satisfy NH.
14	NH have also questioned the drive-time data which has been included within the TN. It is confirmed that this was not anecdotal evidence and was determined using publicly available route-planning software provided by Google which is used by multiple Satellite Navigation systems.	NH welcome this clarification and has no other comments to make on this point. Our policy is clear that the 'need' is established based on distance between existing provision rather than driving time.
15	Despite the fact that NH conclude that there has not been established a need for an MSA in this location based on the 28-mile criteria, they do note that in certain areas on the SRN in particular need of HGV parking (such as the application site, according to NH) should have distances between HGV parking areas of no more than 14 miles.	This is correct. NH has stated that the application site is in an area of need for HGV parking. As such, the Applicant could demonstrate that they meet the 'need' based on the 14-mile criteria. They however only provided information setting out the distances to the nearest MSA. As per our previous responses, they should indicate the distance to other HGV parking facilities such as truck stops. They have not done this.
16	NH state that although the distance between the site and the nearest HGV parking area at a motorway service area is greater than 14 miles, other HGV areas such as truckstops have not been considered. Nonetheless, NH state that the site is located within an area of need	There is a need for more HGV parking in this area. There is not necessarily a need for an MSA. HGV parking provision could be met in various forms.

	for HGV parking. Therefore, by their own admission, NH agree there is a need for this facility in this location.	As per our previous comment, the Applicant may be able to demonstrate that there is a need for an MSA (based on the 14-mile criteria). However, they appear to have chosen not to.
17	It cannot be argued that there is not a need for an MSA in this location whilst maintaining that the site resides within an area of need for HGV parking, thus requiring additional facilities.	Please see above answer. In addition, if the MSA is in an area of need for HGV parking, and the MSA does not provide sufficient parking provision for HGVs, then this could lead to queuing out of the site onto the SRN. This could create an unacceptable impact on highway safety. As such, NH must ensure that the level of (HGV) parking within the site has been calculated appropriately.
18	NH also state that the access and egress arrangements must comply with DMRB requirements whilst at the same time not identifying any material concerns. The proposals are for an identical access arrangement to the previous application, which was approved and agreed with NH. As set out above, there has been no change to the relevant design standard (CD 123) since the application was approved. The Applicant would reaffirm the information provided above regarding the established case law in respect of the fallback position.	NH is not necessarily objecting to the access/egress arrangement. However, as per our previous responses, our updated processes and procedures now require more scrutiny of physical changes to our network. The previously approved access arrangement did not undergo this level of scrutiny. This will now need to. NH will not support proposals where our new procedures have not been followed. Our procedures are to ensure that the scheme is deliverable in engineering terms, and

		that all safety considerations have been made. This is necessary to ensure that proposals comply with paragraph 115 of the NPPF.
19	Furthermore, and as both the LHAs have acknowledged, the anticipated peak hour trip generation for the site is now lower than was previously approved. NH have also already requested further information beyond what was covered in the previous application, such as additional vehicle tracking for an abnormal load, that has already provided.	The Applicant had based trip generation on demand from the M69 motorway only. Given that the site will be accessed from the A5, it is reasonable to assume that the proposal would generate demand from the A5 also. We have therefore asked for the trip generation figures to be revisited. It is regrettable that NH did not state this in our earlier response, although the Applicant might have foreseen this requirement. The previous application did not include vehicle tracking for an abnormal load. This has however now been submitted following our request.
20	CCTV & Lighting NH have requested information regarding detailed CCTV and lighting matters, which is simply not a planning consideration for NH in this context. These matters will be addressed with the LPA at the appropriate stage and anticipated to be managed by condition with the LPAs. It is common for these matters to be conditioned to ensure that they can be finalised and agreed in detail without having to submit revised planning applications to address matters raised at the detailed design stage. For the avoidance of doubt, CCTV and lighting will be a part of the development proposals and will be submitted for consideration as part of the planning condition discharge process.	CCTV and lighting provision is a minimum criterion for an MSA as per DfT Policy 01/2022. We therefore asked that the site drawing be updated to identify the location of CCTV and lighting in order for the drawing to be referenced in planning conditions. We are content though that this provision should be achievable and the provision of CCTV and lighting could be subject of a planning condition. As such, we have no further comments on this point.

21	Parking Provision NH acknowledge that traffic flow data from the M69 has been used to determine the appropriate parking provision for the site, but now request that in order to determine the parking provision, flows from the adjacent A5 should also be considered. This is the first time through numerous pre- and post-application discussions and responses that NH have requested additional information for the A5 given the application is for an MSA. NH have been provided with ample time to offer a response on all matters regarding this application and it is unacceptable that NH are once again moving the goalposts in relation to the application.	This is correct and it is regrettable that NH did not mention the need to include A5 related trip generation previously. The Applicant could however have assumed the need for this given that the site is directly accessed from the A5.
22	Moreover, the A5 is a trunk road, and the application is for an MSA. A dual-use trunk road / motorway service area would be a new concept, and it is not how the Applicant would intend to operate the site. The Applicant intends to operate the site as an MSA, which would result in amenities such as fuel provision being provided in line with prices at similar MSA sites. As an example, TRSAs provide fuel at a significantly lower price than MSAs and it is therefore concluded that it would be incredibly unlikely that A5 road users would make use of the site for this purpose. Food concessions also charge a premium rate at an MSA, further discouraging TRSA users.	The Applicant suggests that the motorists on the A5 will be discouraged from using the MSA purely based on price. MSA prices are generally higher than TRSAs prices, but MSAs also provide additional facilities, such as showers for HGV drivers.
23	Notwithstanding this, we have undertaken an exercise to demonstrate that the additional flows recorded on the A5 can be accommodated within the parking provision. Traffic flows taken from the A5 have been used to determine any additional trip generation which may result at the site. DfT Count Point data has been obtained from the A5 to the west of the site (Count ID: 56143).	We welcome this and request that the Applicant provide the raw data for our verification.
24	Subsequent to the COVID-19 pandemic, the count point data in this location has shown a reduction in traffic flows year on year. To inform a robust approach, pre-	We welcome this approach.

	pandemic (2019) data has been obtained, which is also consistent with the submitted TA.	
25	The traffic survey data found within the submitted TA has been used to determine the proportion of traffic routing along the A5 only (so as to prevent double counting of vehicles also routing along the M69 and therefore already included in the motorway traffic data). This proportion is illustrated within Flow Diagram 1 from the submitted TA.	This methodology appears reasonable.
26	The table below summarises the parking requirements based on the passing flow along the M69 and the A5. As per the DfT Circular 01/2022, the parking requirements for TRSAs have been applied to the A5 flows and parking requirements for MSAs applied to the M69 flows.	This methodology appears reasonable.
27	The new parking requirement based on the combined data shown above has been considered in a new site layout plan which can be found enclosed within this letter. The new layout plan demonstrates that it meets the above parking requirements, with 272 car parking bays (inclusive of 17 disabled and 36 EV bays), 11 motorcycle parking bays, 44 HGV parking bays, seven coach parking bays and 10 caravan parking bays. Additional secure cycle parking is also shown on the site layout plan.	The proposed parking levels now look acceptable.
28 & 29	Staff Parking It is noted that Staff Parking is not a requirement at a MSA as per DfT Circular 01/22 as the guidance covers all parking, inclusive of staff. Any spaces on the proposed site layout plan that are indicated as for use by staff are not the sole parking provision for staff members. Should the number of staff on site exceed the number of staff parking bays, any of the general car parking provision can be utilised. The provision for staff is already considered within the assessment in line with the DfT Circular. Notwithstanding this, the	It is correct that DfT Circular does not specially mention staff parking. It is not clear whether staff parking is already included in the parking calculations. NH is however, content to accept this point and will welcome a condition related to a staff Travel Plan.

	Applicant has confirmed that they would welcome a condition relating to Travel Plans as they would do this as standard practice.	
29 & 30	Access NH acknowledge that the site access arrangements remain the same as the previously approved roadside development at the site. However, NH claim that the proposed arrangements do not meet their requirements as drawings must be designed to DMRB guidance but offer no evidence of a change in design standards. The planning fallback position of the site cannot be disregarded by NH as noted above. Moreover, DMRB guidance, particularly CD123, was issued in November 2021. There have been no changes to DMRB guidance subsequent to the previous application.	It is not a change to CD123 of DMRB but a change to our processes and procedures for ensuring that the proposal complies with DMRB. Our processes are there to ensure that the access/mitigation can be delivered in engineering terms and does not lead to any unsafe or unacceptable consequences on our network or assets. Further detail of these requirements are set out in Planning for the Future: A Guide to Working With National Highways on Planning Matters, October 2023
31	The Local Highway authorities have reviewed the planning application and have agreed that the proposed trip generation is lower than what is already approved on the site through previous applications. On this basis, the Applicant could look to reduce the scale of the access proposals, however, to ensure the robust suitability of the scheme and to expediate the planning process, the approved arrangement has been retained.	To our knowledge, the LHAs have not reviewed the updated trip generation based on M69 and A5 patronage. NH can now agree the trip rates (subject to our verification of the A5 and M69 flow data). In the meantime however, we have proceeded to review the LinSig modelling. Our initial comments on the LinSig are set out in the main body of this response letter.
32	Furthermore, NH state that the swept path drawing for an abnormal load has been provided by DTP, but they are yet to review and comment on this. It is	The swept path analysis for an abnormal load was provided at the request of NH.

	again reiterated that NH have had ample time to review and comment on all aspects of these proposals and this further delay is considered unreasonable.	It may be abortive work for NH to review swept paths until we were confident that access arrangement is adequate.
33	Trip Generation NH have acknowledged that an updated trip generation assessment has been undertaken using the 'turn-in' rate methodology that they previously requested, but this is still not accepted. Both Local Highway Authorities have confirmed no objection to the proposals on the basis of the original TA TRICS-based assessment, which has been agreed with NH both pre-application and within their first consultation response.	The LHAs previous no objection to the trip generation was based on the assumption that NH had agreed the trip generation. This has since changed. As per our previous response, following a review of the TRICS outputs, it was deemed that TRICS was not representative in this instance, and we requested trip generation to be revisited based on 'turn in' rates as has been undertaken for other MSA proposals.
34	Thus far, advice from NH with regard to trip generation has been that a TRICS assessment was appropriate, then not appropriate, and that a turn-in based assessment based on M69 flows would be appropriate, then not appropriate. This is unreasonable behaviour and NH are once again moving the goalposts in relation to the trip generation assessment.	NH regrets that our position on trip generation has unfortunately changed following a handover from one case officer to another.
35	NH request that in addition to flows on the M69, flows along the A5 need to be considered within the trip generation assessment. The application is not for a trunk road service area, and it is not intended to cater for vehicles routing along the A5, who are unlikely to use the site based on commercial factors. The site will operate as an MSA and will only be signposted from the M69.	As per our earlier comment, the Applicant suggests that motorists on the A5 will be discouraged from using the MSA based on price. It is correct that MSA prices are generally higher than TRSAs, but MSAs also provide additional facilities (such as showers for HGV users).

36	Nonetheless, the additional trip generation resulting from traffic on the A5 has been considered. The traffic survey data found within the submitted TA has been used to determine the traffic flows routing solely along the A5 in the AM and PM periods, to avoid double counting of vehicles also routing along the M69. In order to determine an appropriate turn-in rate for vehicles routing along the A5, turn-in rate data has been sought from surveys undertaken by DTP at TRSA sites nationwide and are summarised as an average of AM and PM turn-in rates for each site in the table below.	This methodology appears reasonable.
37 & 38	The data indicates that TRSAs can expect an average turn-in rate of around 3.2% of the passing vehicle flow on the trunk road. This turn-in rate has been applied to the A5-A5 flows recorded during the traffic survey at the site detailed within the submitted TA in the table below (table included in TN). The above table demonstrates that the site would be expected to generate an additional 16 and 19 two-way vehicle trips in the AM and PM peak hour periods, respectively. This additional trip generation still remains well below the headroom of previously approved trips at the site.	This methodology appears reasonable.
39	Travel Plan NH's response regarding the Travel Plan does not appear to have changed in their latest response. It is considered that the latest response provided by DTP within the TN has not been acknowledged by NH. Further to this, as part of the previous approval, there was a S106 agreement for a contribution from the Applicant to staff bus passes. The Applicant has already engaged in discussions with the LPA and are happy to also provide this for the current application.	There was nothing additional in the TN that changed NHs position in relation to the Travel Plan. Nonetheless, we can agree to the Travel Plan being conditioned.
40	Other Matters NH state that the April 2024 TN submitted by DTP provided no further information relating to other matters such as junction capacity	NH could not comment on junction capacity assessments, merge/diverge

	assessments, merge/diverge assessment and highways mitigation. Therefore, NH have implied that they would not comment further on these matters. However, no further information is needed on these matters, as they are all addressed within the submitted TA.	assessment or highways mitigation until the trip generation had been agreed. Further comments on these matters are now contained in the main body of this response letter.
41	In their earlier responses, NH highlighted that they would not be commenting on these matters until concerns such as trip generation had been addressed, but no further information was requested. It is disingenuous and misleading of NH to suggest that they have been awaiting further information on these matters.	Some of the other outstanding matters have been explained above already. High-level comments on boundary related matters were set out in our February 2024 response. Now that there is a greater assurance that the proposal can meet the minimum requirements for an MSA, these matters have been looked at in more detail and our further comments are set out in the main body of this response letter.
42	Furthermore, consultants acting on behalf of NH requested in December 2023 a copy of the traffic model, and this was provided by DTP. This suggests that this further information has been sat with NH for the previous 6 months, on which we have had no comments or response.	Reviewing the traffic model before trip generation was agreed could result in abortive work. NH have now reviewed the LinSig model and our comments are set out in the main body of this response letter.
43	NH have had more than sufficient time to address all matters, we would note that it is not currently for DTP to provide further information on these matters, it is in fact for NH to comment on all highways matters with regard to the proposals.	This is incorrect. The access proposals have not been designed to a sufficient level of detail. Our Oct 2023 planning guidance provides more information on the level of detail required.
44	Overall, it is concluded that the additional matters raised by NH in the latest	NH will maintain our holding recommendation

	response is another fundamental change of position with respect to the application. Despite this, it is considered that each of the matters have been addressed in detail above. It is again reiterated that the behaviour of NH during this application has been noted as unreasonable and an appeal for non-determination of this application will be sought if NH continue to maintain their holding objection in light of the information set out above.	(not holding objection) until all outstanding matters have been addressed. We are keen to work with the Applicants to resolve the outstanding matters, and hope that these can be addressed in the next few months.
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