

**Construction of B8 warehouse together with ancillary buildings and associated access, parking, service and yard areas and landscaping**  
**Plot 12 East Midlands Gateway Development Ashby Road**  
**Castle Donington, DE74 2DL**

**Report Item No**  
**A1**

**Application Reference**  
**20/00718/FULM**

**Grid Reference (E) 446551**  
**Grid Reference (N) 326949**

**Date Registered:**  
**22 April 2020**  
**Consultation Expiry:**  
**22 May 2020**  
**8 Week Date:**  
**17 June 2020**

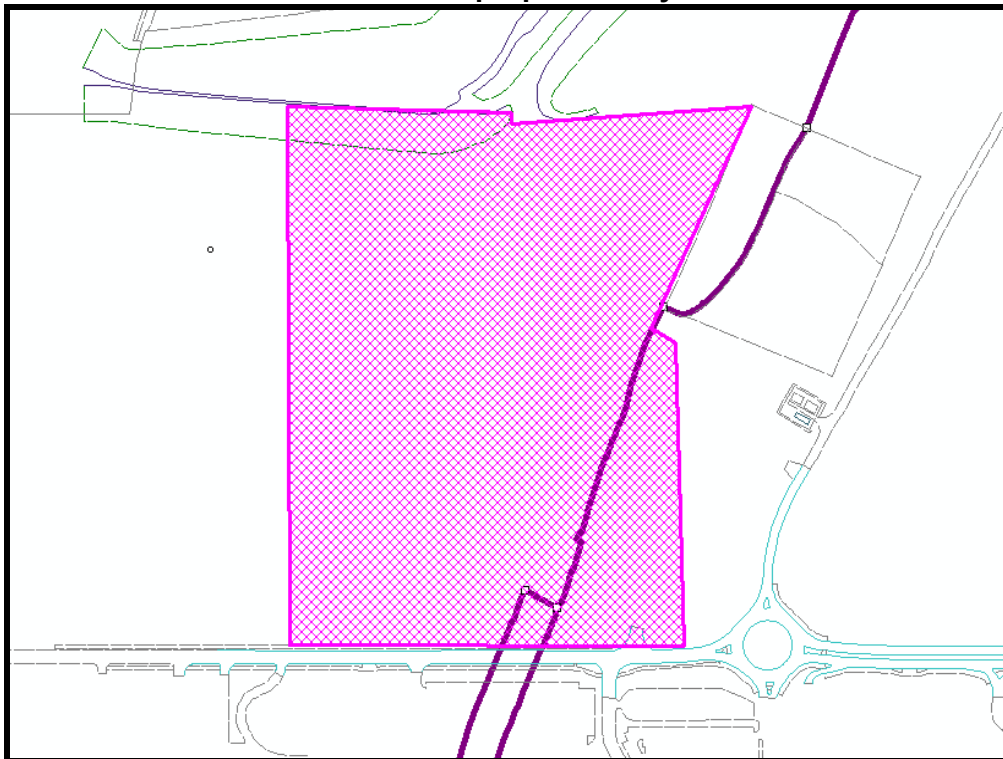
**Applicant:**  
**Segro (EMG) Ltd**

**Extension of Time:**  
**5 August 2020**

**Case Officer:**  
**Adam Mellor**

**Recommendation:**  
**PERMIT subject to S106 Agreement**

**Site Location - Plan for indicative purposes only**



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

This application has been brought to the Planning Committee at the request of Councillor Sewell on the basis of the visual impacts as a result of the height of the unit, the implications the height would have to the setting of the Lockington and Hemington Conservation Areas and that a further precedent would be set for developments on the site to exceed the height parameters (i.e. the specified height of the units as determined by the Development Consent Order (DCO) granted by the Secretary of State for Transport).

### **Proposal**

The application is for the construction of a B8 warehouse together with ancillary buildings, associated access, parking, service and yard areas and landscaping at Plot 12, Zone A6, East Midlands Gateway Rail Freight Interchange, Castle Donington.

### **Consultations**

Objections have been received from third parties as well as Castle Donington Parish Council, Lockington cum Hemington Parish Council and The Gardens Trust (albeit a revised consultation response is awaited following the receipt of further information), the Council's Conservation Officer has also identified some harm in relation to the application. All other statutory consultees have raised no objections.

### **Planning Policy**

The application site is outside the Limits to Development in the adopted North West Leicestershire Local Plan but forms part of the East Midlands Strategic Rail Freight Interchange (EMSRFI).

### **Conclusion**

Whilst the site is outside the Limits to Development it forms part of the EMSRFI which was granted a Development Consent Order (DCO) in January 2016 and which has been implemented. The key issues are:

- The impacts to the visual amenities and landscape character of the area; and
- Impact on the historic environment.

The report below looks at these details, and Officers conclude that the details are satisfactory. The proposals meet the requirements of relevant NWLDC policies including the adopted Good Design for North West Leicestershire SPD, and the NPPF (2019).

## **RECOMMENDATION - PERMIT, SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## 1. Proposals and Background

Planning permission is sought for the construction of a B8 warehouse together with ancillary buildings, associated access, parking, service and yard areas and landscaping at Plot 12, Zone A6, East Midlands Gateway Rail Freight Interchange, Castle Donington. The application site, to which the proposed unit forms, lies to the east of Castle Donington, south of Lockington and Hemington, west of Kegworth and north of East Midlands Airport and is outside the defined Limits to Development. Zone A6 on which plot 12 is situated is in the north-eastern part of the site allocated for the provision of the warehouse units and is to the east of the rail terminal.

On the 12th January 2016 the Secretary of State for Transport granted a Development Consent Order (DCO) for The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (Statutory Instruments 2016 - No. 17), which comprised the following development as outlined in Schedule 1 of the DCO and which consisted of three separate Nationally Significant Infrastructure Projects (NSIPs): -

- Part 1 - NSIP 1: The Construction of a Rail Freight Interchange;
- Part 2 - NSIP 2: The Construction of a New Highway;
- Part 3 - NSIP 3: The Alterations of Existing Highways;
- Part 4 - Associated Development.

In more detail these works comprised the following:

- Provision of up to 557,414 square metres of rail-served warehousing and ancillary service buildings;
- An intermodal freight terminal accommodating up to 16 trains per day each way of up to 775 metres in length and which will include container storage and HGV parking;
- A new rail line connecting the terminal to the Castle Donington freight only branch line;
- Substantial improvements to Junctions 24 and 24A on the M1;
- A southern bypass of Kegworth to the east of the M1;
- Other new roads and alterations to existing road infrastructure;
- A bus interchange;
- Alterations to public rights of way;
- Demolition of existing structures and structural earthworks to create development plots and landscape zones; and
- Strategic landscaping and open space, including the creation of new publicly accessible open areas.

As part of the consideration of the DCO application a Parameters Plan was submitted which was used as a basis to determine the number of units within a zone, the maximum floor space of development within a zone and the height of the unit within a zone. For Zone A6 (where plot 12 is situated) it was proposed that up to 5 units could be constructed which would provide a maximum floor space of 147,295 square metres and where units could have overall heights of 20.5 metres. The maximum plateau level within Zone A6 is 66.50 metres Above Ordnance Datum (AOD).

This application seeks to provide a B8 unit with a floor space of 64,483 square metres on Zone A6 which would have a stairwell height of 38.3 metres and maximum parapet height of 36.3 metres, to the high bay, and maximum parapet height of 22.3 metres, to the low bay, and as such breaches the dimensions set on the Parameters Plan approved as part of the DCO. On the basis that the height of the unit proposed on plot 12 within Zone A6 would not accord with the terms of the DCO a separate planning application has been submitted for consideration by the

Local Planning Authority. The dimensions, layout and appearance of the proposed unit can be seen on the submitted plans with associated works also being proposed as part of the application.

A planning statement, design and access statement, landscape and visual appraisal, transport assessment, built heritage statement, lighting statement, drainage design philosophy statement, energy statement and BREEAM Assessment have been submitted in support of the application. Following the receipt of consultation responses additional landscape and visual appraisals, built heritage statements and a scheduled monument assessment have been submitted, reconsultation on these documents has been undertaken.

No other recent or relevant planning history was found within Zone A6.

## **2. Publicity**

1 Neighbours have been notified.

Press Notice published Derby Evening Telegraph 6 May 2020.

Site Notices were displayed on 1 May 2020.

## **3. Summary of Consultations and Representations Received**

The following summary of representations is provided.

### **Objections from:**

Councillor Sewell and Councillor Hay on the following summarised grounds:

- The construction of the unit on plot 2 should not set a precedent that other units should be allowed to exceed the heights on the parameters plan.
- The impact of the development on the setting of heritage assets should be appropriately considered with due regard given to heritage assets within the District as well as outside the District.
- Policy Ec3 of the adopted Local Plan outlines that development should not result in harm to the amenities of neighbouring residents or the general environment with Policy D2 of the adopted Local Plan outlining the development should be designed to minimise the impact on residential amenities. There is concern that the development will overshadow the area and be a blight in the landscape.
- If buildings of such height were required, then this should have been factored into the account when the parameters plan was finalised.

Castle Donington Parish Council on the following summarised grounds:

- The proposed height of the unit is above the height set by the parameters plan and therefore the bund is not sufficient to shield the view of the unit and consequently the bund should be raised in height by 16 metres.

Lockington cum Hemington Parish Council on the following summarised grounds:

- As there is less than substantial harm to heritage assets then it will be necessary to assess the application against Paragraph 196 of the NPPF and the potential public benefits of the scheme. Such public benefits should only be applicable to the increased height of the unit as the employment levels will be no different.
- The construction of the unit at plot 2 should not set a precedent that other units should

be allowed to exceed the heights on the parameters plan.

- The visual appearance and character of the landscape will be deteriorated and eroded as a result of the increase in height of the unit which will impact on the setting of settlements in the area above the level accepted when the Development Consent Order was granted.
- If planning permission is granted then a condition should be imposed requiring additional landscaping to the bund around Lockington and Hemington to ensure that the level of screening is increased, such landscaping should be approved before the application receives consent.
- A condition should also be imposed preventing the provision of advertisements on the northern elevations of the building to ensure the grey colour banding is maintained.

The Gardens Trust who consider that there is less than substantial harm to the setting of Kingston Park Pleasure Grounds.

**Concerns from:**

NWLDC - Conservation Officer who has stated that the proposal would result in less than substantial harm to the setting of the Lockington Conservation Area and the Kingston Park Pleasure Grounds Registered Park and Garden.

**No Objections from:**

Derbyshire County Council.  
Derbyshire County Council - Landscape Architect.  
Erewash Borough Council.  
Highways England.  
Historic England.  
Leicestershire County Council - Landscape Architect.

**No Objections, subject to conditions and/or informatives, from:**

East Midlands Airport Safeguarding.  
Leicestershire County Council - Ecology.  
Leicestershire County Council - Highways Authority.  
Leicestershire County Council - Lead Local Flood Authority.  
NWLDC - Environmental Protection.

**Third Party Representations**

Eight third party representations have been received objecting to the application with the comments raised summarised as follows:

*Visual Impacts*

- As the height of the building exceeds the parameters set the application should not be considered.
- The original decision was based on the whole site being screened by landscaping, as a result in the increase in height this would be negated.
- There would be a significant visual impact in views from the neighbouring settlements as a result of the increase in the height of the building.
- The applicant's statements in connection with the plot 2 application identified that only plot 2 could accommodate a building of a greater height without causing detriment to the neighbouring villages, on this basis alone the application should be rejected.
- The bunds are not capable on being amended to screen the increased height in the building.
- The location of plot 12 in relation to the bunding along the edge of Lockington and Hemington will mean that it will have a greater visual impact than the unit at plot 2, which is

further from this bund, and will not be screened by landscaping.

#### *Historic Environment*

- Castle Donington only has a moderate ability to mitigate change to the local area without detrimental effects on its character. Consequently, the proposal would impact negatively on the setting of the Castle Donington Conservation Area given the increased height.

#### *Residential Amenities*

- Noise from the buildings already constructed is required to be investigated.

#### *Others*

- The development is not required at this time.
- Additional hard surfaces as a result of the development will result in further surface water flooding in Hemington.
- Vehicle movements will result in highway safety implications given the tightness of the roads within the neighbouring settlements.
- If an argument is made that an increase in the height of the building is required for economic reasons, then the original permission should be questioned and revoked.

## **4. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework (2019)*

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development);  
Paragraphs 11 and 12 (Presumption in favour of sustainable development);  
Paragraph 34 (Development contributions);  
Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);  
Paragraphs 54, 55, 56 and 57 (Planning conditions and obligations);  
Paragraphs 80, 82 and 84 (Building a strong, competitive economy);  
Paragraphs 105, 106, 108, 109, 110 and 111 (Promoting sustainable transport);  
Paragraph 117 (Making effective use of land);  
Paragraphs 124, 126, 127 and 131 (Achieving well-designed places);  
Paragraphs 163 and 165 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 170, 175, 178, 179 and 180 (Conserving and enhancing the natural environment);  
and  
Paragraphs 192, 194, 196, 199 and 200 (Conserving and enhancing the historic environment).

### **Adopted North West Leicestershire Local Plan (2017)**

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 - Future Housing and Economic Development Needs;  
Policy S2 - Settlement Hierarchy;  
Policy S3 - Countryside;  
Policy D1 - Design of New Development;

Policy D2 - Amenity;  
Policy Ec1 - Employment Provision: Permissions;  
Policy Ec5 - East Midlands Airport: Safeguarding;  
Policy Ec6 - East Midlands Airport Public Safety Zones;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En6 - Land and Air Quality;  
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
Policy Cc2 - Water - Flood Risk; and  
Policy Cc3 - Water - Sustainable Drainage Systems.

### **Other Policies**

National Planning Practice Guidance.  
National Networks National Policy Statement - December 2014.  
The Logistics Growth Review - November 2011.  
Local Transport Plan (Leicestershire County Council) - April 2011.  
Leicestershire Highways Design Guide (Leicestershire County Council).  
Good Design for North West Leicestershire Supplementary Planning Document - April 2017.  
Planning (Listed Buildings and Conservation Areas) Act 1990 - Sections 66 and 72.  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
The Community Infrastructure Levy Regulations.

## **5. Assessment**

### **Principle of the Development**

The application site is situated outside the defined Limits to Development where the principle of development is generally restricted to those forms of development specified within Policy S3 of the adopted Local Plan. Part (s) supports the provision of employment land in accordance with the provisions of Policy Ec2. Development under part (s) of Policy S3 would also need to adhere to criteria (i) to (vi) of this Policy.

It is noted that the principle of the development of the site for the provision of a Strategic Rail Freight Interchange (SRFI) has been established by the granting of a Development Consent Order (DCO) by the Secretary of State in January 2016.

The development granted under the DCO allowed for the provision of rail served warehousing of particular dimensions to six development zones within the site with this particular application relating to a warehouse on Zone A6. For the avoidance of doubt this application does not seek to provide any additional warehouse units on the site, over and above those permitted by the DCO, but seeks to establish whether the increase in the height of the unit on Zone A6 above the level set by the Parameters Plan, of 20.5 metres, is acceptable.

Accordingly it is considered that the main matters for consideration as part of this application are the impact the increase in the height of the unit would have on the visual amenities and character of the landscape, the impact to the setting of heritage assets, whether the design of the unit is acceptable and whether there are any greater implications to airport safeguarding as a result of the development. Secondary matters for consideration would be whether the increase in the height of the unit has any greater impacts on the amenities of neighbouring properties, flood risk and highway safety.

Whilst Councillors Sewell and Hay have referred to Policy Ec3 (Existing employment areas) in their joint objection it is considered that this Policy would not be of relevance to the assessment of the application given that the application site is not covered by the terms of Policy Ec3.

### **Landscape and Visual Impacts**

An assessment of the visual impacts of the consented development on the landscape was undertaken by the Examining Authority (ExA) who provided a recommendation to the Secretary of State for Transport on the SRFI. The ExA concluded the following: -

*"Although of a significant size and scale, the built development within the SRFI site would largely be screened from external views due to the landform changes and the mounding with associated landscape planting. In their joint Local Impact Report (LIR), LCC and NWLDC consider that it would be inevitable that development of this scale would give rise to a significant landscape and visual impact at the local level. This would particularly be the case until the proposed landscaping had matured, and it would then assist in screening the majority of the built development.*

*There also would be substantial areas of grassland pasture and open space both preserved and created. Several of the photomontages show how prominent the existing two main areas of woodland at The Dumps and King Street Plantation are, and therefore their retention as proposed, coupled with significant additional planting, are important elements of mitigation. When set in the context of the major built landscape development in the locality we do not consider that the wider landscape impacts would be significantly detrimental. We therefore concur with the conclusions in the ES on this matter."*

A revised Landscape and Visual Appraisal (LVA) has been submitted in support of this application and this has concluded the following: -

*"Overall, the proposed Plot 12 development will result in some landscape and visual effects over and above those of the consented EMG development. These will primarily relate to the effects upon landscape and visual receptors to the north and east of the EMG site. This will include the effects upon parts of the wider Trent Valley and visual receptors generally to the north; and from parts of the landscape and visual receptors on the western edge and to the north east of Kegworth.*

*For the majority of these locations and receptors, the level of landscape and visual effect arising from the Plot 12 development, over and above the consented EMG development, is likely to be Minor Adverse. The only exceptions to this are likely to be where no such view or influence would arise from the consented EMG buildings. This is only predicted to potentially arise for a limited number of visual receptors and over a limited landscape area within and around Lockington and Hemington. The effects upon these landscape and visual receptors will be up to Minor/Moderate Adverse.*

*The proposed Plot 12 development has been appropriately considered and assessed in relation to landscape and visual matters. There will be an increase in some landscape and visual effects over and above those of the consented EMG scheme. For others, there will be no change to the originally assessed effects. In the medium and longer term, the increased effects identified will be effectively mitigated and reduced through the maturing of the recent woodland and tree planting extending across the wider EMG perimeter mounding and landscape areas."*

As part of the consideration of the application the Landscape Architect at Leicestershire County



Council has been consulted and in respect of the landscape and visual impacts, they have raised no objections and have stated that:

*"the Landscape and Visual Assessment, FPCR April 2020, has provided a thorough and accurate assessment of the proposed development and subsequent increased building height. I agree with the conclusions reached in the report that the proposed height and mass will be visible particularly from the north/north-east/north-west, but this effect will be mitigated by planting over time."*

It is also the case that the Landscape Architect at Derbyshire County Council has commented on the application and has also raised no objections with their comments outlining that:

*"cross sections seem to suggest that the extensive earthworks and planting will in the long-term also provide very effective screening in these views from the north. As such it is difficult to assess what the likely impact would be within Derbyshire, but it is considered that it would be difficult to make the case that these impacts would be significant and therefore unacceptable. The LVIA does acknowledge that the main visual impacts will be on receptors to the north, north-west and north-east so the potential is there that the increased height in this building might be visible from some receptors but this would be over some distance and in the context of other similar development in the area, such as the very large M&S distribution centre, which already exists. Having checked views using Google streetview from a number of locations around Weston-on-Trent and Aston-on-Trent it does appear that there is rising ground beyond the Trent Valley between these locations and the proposed development site so in reality any view is likely to be extremely limited or none. It is also noted that the building would be finished in banded colours similar to other buildings within the EMG where colours get lighter with height. Again, this would be beneficial because if there was any partial view then this would be the top of the building viewed against a sky backdrop. Overall, it is considered that the proposed development would raise no significant concerns for Derbyshire from a landscape and visual impact point of view regarding this proposed amendment to the original DCO scheme."*

The plateau on which the building would be set is 66.5 metres Above Ordnance Datum (AOD) and as proposed the unit on Plot 12 within Zone A6 would breach the Parameters imposed by the DCO as follows:

- Parapet High Bay (PHB) = 36.3 metres (102.8 metres AOD based on plateau level of 66.5 metres AOD) = +15.8 metres above parameters (20.5 metres max height);
- Parapet Low Bay (PLB) = 22.3 metres (88.8 metres AOD) = +1.8 metres above parameters;
- Stair Tower = 38.3 metres (104.8 metres AOD) = +17.8 metres above parameters.

For the unit proposed at Plot 12 within Zone A6 the high bay would comprise 55.8% of the total area of the building to be created with the stair tower comprising 0.06% of the total area.

At this time four units have been constructed on the site with a fifth under construction, four of these units have been approved in accordance with the Requirements of the Development Consent Order (DCO) with the other being subject to a separate application given that its overall height also exceeded the Parameters set by the DCO. This is the unit constructed on Plot 2 (occupied by XPO/Nestle) which was granted permission under application reference 17/01165/FULM. Predominately these units are set to the south of the site except for one which is set to the west.

As a way of comparison with these existing and permitted units the proposed unit would have

the following relationships with their overall heights (AOD):

Unit 1 (Amazon), set to the south-east = 89.25 metres AOD

- PHB = +13.55 metres; and
- PLB = -0.45 metres.

Unit 2 (XPO/Nestle), set to the south = 106.98 metres AOD (high bay) and 92.98 metres AOD (low bay)

- Highest Part - PHB = -4.18 metres; PLB = -18.18 metres;
- Lowest Part - PHB = +9.82 metres; PLB = -4.18 metres.

Unit 3 (Shop Direct), set to the south-west = 94.21 metres AOD

- PHB = +8.59 metres; and
- PLB = -5.41 metres.

Unit 4 (Kuehne + Nagel), set to the south-west = 94.3 metres AOD

- PHB = +8.5 metres; and
- PLB = -5.44 metres.

Unit 5 (Games Workshop), set to the west = 81.34 metres AOD

- PHB = +21.46 metres; and
- PLB = +7.46 metres.

In terms of other levels, the airport path at East Midlands Airport, set to the south, is 85.4 metres AOD, the runway at the airport is set at 86.0 metres AOD and the land at the King Street Plantation, set to the north-east is 66.6 metres AOD. The perimeter mounding (excluding any landscaping) formed as part of the approval of the DCO has finished levels of 78 metres AOD (to the western boundary with Castle Donington), 76 metres AOD to the northern boundary (with Hemington and Lockington) and 57.73 metres AOD (to the eastern boundary with the A453, M1 and Kegworth).

In terms of the lower bay element of the unit it is noted that the parapet would only exceed the height set on the parameters plan by 1.8 metres. Based on the above comparisons the lower bay element of the unit would be below the overall heights of the units set to the south (units 1 to 4) but higher than the height of the unit set to the west (unit 5). It is, however, the case that the parameters plan allows units constructed in Zone A6 (where plot 12 is situated) to be higher than those within Zone A5 (where unit 5 is located) with units in Zone A5 having finished floor levels (FFLs) of 67 metres AOD and overall heights of 17.5 metres (i.e. 84.5 metres AOD) whereas those within Zone A6 have FFLs of 66.5 metres AOD and overall heights of 20.5 metres (i.e. 87 metres AOD).

Whilst higher than the height of the unit set to the west taking into account the height of the bunds to the western and northern boundaries, and subsequent landscaping to be planted on the bunds, it is considered that this increase in the height of the lower bay would not be of such significance that there would be an adverse impact on the landscape character of the area or the visual amenities of the wider environment. This is due to the landscaping assisting in screening the lower bay element from Castle Donington, Hemington and Lockington with any

views from Kegworth viewing the lower bay element in comparison with the units 1 - 4 on the site which are greater in height. An increase in height of the lower bay element by 1.8 metres above the height set by the parameters would also not be perceivable in views towards the site from distant locations.

In terms of the higher bay element of the unit, including the stair tower, in order to assess the application the applicant was requested to indicate why plot 12 within Zone A6 had been selected as the site to accommodate a unit of a greater height as well as whether any consideration had been given to the reducing the visual impact (i.e. lowering the finished floor level). This followed discussions with Lockington cum Hemington Parish Council who requested such information in order to enable them to properly assess the impact of the application.

In response to this request the applicant has specified that plot 12 was selected for the following reasons:

- The formed plateau of Plot 12 within Zone A6 is set at the lowest height on the estate which is currently vacant with all the other plots having a plateau height in excess of Zone A6, thereby a unit elsewhere would be more visible in the landscape.
- Plot 5 has been assessed in detail by East Midlands Airport Safeguarding and a building of the height proposed on plot 5 would impact on planes landing and taking-off so consequently had to be discounted.
- The existing woodland to the east of plot 12 (the King Street Woodland Plantation) would also offer natural screening of the building.

The ability to reduce the finished floor level of the unit was also explored but this was not possible as it would prevent access from the estate road by vehicles given the fixed height of the constructed roadway, it would not allow for surface water or foul drainage infrastructure to be provided which would connect into the existing systems and would also lead to extensive vehicular movements of cut material off the site as this could not be balanced with the existing earthworks.

In proposing the building massing and orientation within the plot the submitted design and access statement identifies that numerous options were considered but it was determined that by placing the high bay to the southern part of the unit this would ensure it would have a greater separation distance from the landscaping bunds, and consequently the neighbouring settlements, whilst also placing it closer to unit 2 which already has a high bay.

The impacts on the visual amenities and landscape character of the immediate and wider area are set out below:

### *The South*

In views from the south (i.e. from within the boundaries of East Midlands Airport) the high bay would not be visible given that it would be obscured by existing built infrastructure within the confines of the airport. Potentially a view may be established across the runway of the airport in views from the roundabout at the top of Hilltop in Castle Donington, as well as the passenger terminal, but in such a view the high bay would be seen in the context of its relationship with built infrastructure at the airport as well as the high bay on unit 2 (which would partially obscure the unit on plot 12 given that it is higher when taking into account its finished floor level). Given the presence of this significant urban infrastructure there would be no landscape and visual harm.

*The West*

From the west (i.e. from Castle Donington) the submitted landscape and visual appraisal identifies that plot 12 is situated away from the landscaping bund to the western boundary of the East Midlands Gateway (EMG) site (by over 860 metres) and whilst the high bay would be visible upon completion of the development this would be limited mainly to those properties on the eastern edge of the settlement (on Moira Dale). However, over time the maturing of the landscaping on the bund would obscure the high bay in its entirety. Prior to the landscaping maturing the high bay would be viewed in connection with the other units on the site (including the high bay on plot 2), but in the circumstances that the high bay would become obscured over time the degree of landscape and visual harm would not be sufficiently detrimental to visual amenities or landscape character as to cause conflict with local and national planning policies. Given the conclusions of the landscape and visual appraisal there would be no requirement to increase the height of the bund to the western boundary of the EMG as requested by Castle Donington Parish Council.

*The East*

In views from the east (i.e. from Kegworth) the submitted landscape and visual appraisal identifies that there would be some views from properties on the western edge of this settlement (on Ashby Road and Windmill Way) but on completion of the development the building would be assessed in the context of its relationship with units 1 and 2 given that the perimeter bunding to the eastern boundary of the EMG site is lower in height. Whilst a unit constructed in accordance with the DCO parameters would not be visible once the landscaping had matured, the provision of the high bay would result in the introduction of this element of the proposed unit into views from the east. However, it remains the case that units 1 and 2 would also be visible in such a view given their location at the vehicular entrance to the development. In this context it is considered that the degree of landscape and visual harm would not be sufficiently detrimental as to warrant a refusal of the application particularly as no features of significance would be obscured in the landscape as a result of the development.

Notwithstanding the above conclusion it was requested by officers that the visual impacts could be reduced should additional trees and mature tree planting be undertaken on the bunds to the eastern boundary of the EMG site (alongside the A453 and rail terminal). The applicant has agreed to this request and as such the visual impacts would be appropriately mitigated.

*The North*

It is acknowledged within the submitted landscape and visual appraisal that from the north (i.e. from Lockington and Hemington) there is the potential that the proposed building would have an influence on views where no such influence would occur if a unit was provided on plot 12 in accordance with the parameters set by the DCO. Whilst such influence may arise the landscape and visual appraisal concludes that this would be to a limited number of visual receptors and over a limited landscape setting with only the high bay element being visible. The concern in this respect was acknowledged by Lockington cum Hemington Parish Council and following a meeting with the applicant further photomontages were submitted to outline the impact in two viewpoints on Main Street, Lockington (with one such viewpoint being updated and the other being an additional viewpoint requested by the Parish Council).

The associated commentary in connection with the additional photomontages, from the applicants landscape advisor, specifies that in the first view on Main Street (outside the

entrance to Daleacre Court) the unit on plot 12 would almost be fully screened from this location, from the outset, by the bund with glimpsed views possible of the high bay above and through the existing intervening planting (which would be in the mid-distance). The updated photomontage on Main Street (no. 3 Main Street) identifies that upon completion of the development the high bay would be visible from this location between the existing intervening mature trees and woodland, however over time the existing landscaping and proposed planting on the bunds would filter and screen views of the high bay. In acknowledging the above visibility, the applicant has also sought to mitigate the impact by making amendments to the proposed landscaping to be provided on the bunds to the northern boundary of the EMG site, such amendments would increase the number of tree species to be planted as well the planting of more mature trees from the outset. The provision of such landscaping would reduce the visibility of the high bay and therefore lessen the overall impact, with the consultation response from Lockington cum Hemington Parish Council concluding that such amendments have lessened their concern in this respect subject to the landscaping amendments being secured.

It is noted that the landscaping on the bunds is outside the confines of the application site for plot 12 but would be undertaken on land under the control of the applicant. Requirement 8 of the DCO controls landscaping and in this respect a landscaping scheme for the bunds has already been approved. The applicant, however, has specified that a revised submission against Requirement 8 would be made to secure the amendments to the landscaping on the bunds to the northern and eastern boundaries. In terms of this application a Grampian condition (i.e. a condition requiring works to be undertaken on land outside the confines of the application site) would be imposed on any permission granted to ensure that any revised landscaping scheme secured against Requirement 8 is undertaken, with the applicant accepting that such landscaping is provided within the upcoming planting season (commencing from October/November 2020). The provision of such landscaping at this time will ensure it has an opportunity to be established before the unit is completed.

Whilst Lockington cum Hemington Parish Council has required such a landscaping scheme to be approved before a decision is made on this application, given the need to carry out consultation with East Midlands Airport Safeguarding (EMAS), it is considered that the proposed landscaping simply seeks to provide species which already form part of the approved landscaping schemes. Consequently, whilst still needing approval from EMAS it is unlikely that such approval would not be forthcoming given that they raised no objections to the landscaping which has already been provided on the wider EMG site. In any event, the agent has advised that the amended landscaping scheme will be submitted before the application is due to be determined by the Planning Committee and any update in this respect will be reported to Members via the update sheet.

Given the limited extent of the landscape setting and visual receptors which would be impacted on as a result of the provision of the high bay, as well as the mitigation of this impact further by the provision of additional landscaping to the northern bund, it is considered that the degree of harm to the visual amenities and landscape character of Lockington and Hemington would not be so adverse that a reason to refuse the application could be substantiated.

#### *Wider Visual Amenity and Landscape Character Impacts*

The submitted visual and landscape appraisal acknowledges that within the wider landscape distant views of the high bay would be possible from the north, north-east and north-west but over time the maturing of the landscaping to the bunds, as well as the presence of the existing woodland plantations, would filter and screen views of the high bay. Where visible the high bay would be assessed in the context of not only the high bay element of unit 2 (which would remain

more visually dominant given that it has a greater height AOD than the unit at plot 12) but also other significant urban influences including electricity pylons, the Ratcliffe-on-Soar power station and built development within East Midlands Airport and the settlements of Kegworth and Castle Donington. On this basis the implications to the visual amenities and character of the wider landscape would not be sufficiently adverse as to warrant a refusal of the application when the building is assessed separately as well as cumulatively with unit 2, particularly as the high bay elements of both units would be visually seen together given their proximity to each other.

In any event, and as outlined above, the applicant would seek to provide additional tree planting, including mature tree planting, on the bunds to the northern and eastern boundaries of the EMG site which consequently would further seek to mitigate the overall visual impacts.

### *Conclusion in Relation to Visual Amenity and Landscape Character Impacts*

Overall the implications to the landscape and visual appearance of the immediate and wider area as a result of the provision of the high bay on the unit would not be of such detriment that a reason to refuse the application could be justified, particularly when taking into account the provision of mature species of trees as a result of the revisions to the landscaping upon the bunds and that both the landscape architects at Leicestershire and Derbyshire County Councils have raised no objections. As such the proposal accords with criterion (i) of Part 2 of Policy S3 and Policy D1 of the adopted Local Plan as well as Paragraphs 124 and 127 of the NPPF.

### **Impact on the Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, as well as a Conservation Area or other heritage assets, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess and to the desirability of preserving or enhancing the character or appearance of that area. Such an approach is also supported by Paragraphs 192, 193, 194, 196 and 200 of the NPPF.

In terms of heritage assets, the information submitted in support of the Development Consent Order (DCO) application identified that there were 402 listed buildings, 21 conservation areas and 2 registered parks and gardens within a five-kilometre radius of the site. The Heritage Statement which accompanies this application has identified that the main heritage assets which may be impacted on by the proposed building on Plot 12 within Zone A6 would be the Church of St Nicholas, Lockington (Grade I listed), Church of St Edward King and Martyr, Castle Donington (Grade II\* listed), Church of St Andrew, Kegworth (Grade II\*) and Lockington Hall, Lockington (Grade II listed) as well as the Conservation Areas of Lockington, Hemington and Castle Donington. Therefore, the impact of the development on the fabric and setting of these heritage assets should be given special regard as required by the 1990 Act.

In concluding on the impacts of the development on heritage assets the ExA stated the following: -

*"Overall, we consider that the proposed development would not give rise to substantial harm to the setting of the conservation areas or listed buildings that lie within the vicinity of the application site for the following reasons:*

- *A substantial amount of mitigation is proposed through the creation of development plateaus that are generally at a lower level than the surrounding areas, with associated*

*landscape planting and earthwork bunds; this would largely screen any views of the proposed development from the nearby settlements;*

- *The nearest of any of the proposed warehouse buildings would be some distance from the boundaries of the Lockington, Hemington and Castle Donington Conservation Areas; we consider that these distances, combined with the proposed landform changes and landscape planting would be sufficient to ensure that any impacts on the settings of the Castle Donington, Hemington or Lockington Conservation Areas or the setting of any listed buildings within any of these or other nearby settlements, would not be significantly detrimental; and*
- *The Castle Donington Conservation Area (CDCA) is primarily within the central part of the settlement, and as such there is already other built development located between the boundary of the conservation area and the proposed development; in our view, the existing built development around the CDCA would serve to mask views into and out of the CDCA with regard to the SRFI site."*

The unit on plot 12 within Zone A6 would be set within the eastern part of the site allocated for the construction of the warehouse buildings where it would be to the direct north of unit 2 occupied by XPO/Nestle (the most visually dominant building on the site) as well as to the south of The Dumps Woodland Plantation and to the west of the King Street Woodland Plantation.

In terms of the impacts on heritage assets consultation has been undertaken with the Council's Conservation Officer, Historic England (HE) and The Gardens Trust (GT) as well as the neighbouring authorities which border with North West Leicestershire in this area (namely South Derbyshire District Council, Erewash Borough Council, Charnwood Borough Council and Rushcliffe Borough Council). The implications to the various assets would be as follows:

#### *Impact on Conservation Areas*

The impacts on the Conservation Areas within 5 kilometres of the site are assessed separately as follows:

##### *Castle Donington*

The supplementary landscape and visual note submitted in support of the application identifies that there are no potential views towards the development from this conservation area with built infrastructure already situated around this conservation area. Within the built heritage report it is concluded that the proposed development would be screened by the bunding and consequently there would be no harm to the significance of this conservation area over and above that already deemed acceptable when the DCO was granted.

The Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

##### *Cavendish Bridge, Shardlow*

The supplementary landscape and visual note identifies that there are no discernible views towards plot 12 although the high bay could potentially (most likely in winter) be distantly seen from positions and properties on the south-eastern edge of this conservation area. Within such a view the development would be seen alongside unit 2 and other urban influences in the landscape. An additional built heritage report outlines that the proposal would not appear over dominant or incongruous within the wider setting of the conservation area and would be softened and filtered by existing intervening vegetation. On this basis there would be a neutral change to the setting of this conservation area which would not affect its significance.

The Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

#### *Diseworth*

The supplementary landscape and visual note identifies that there are no potential views towards the development from this conservation area. On this basis there is no harm to its significance.

The Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

#### *Hemington*

The supplementary landscape and visual note identifies that there are no potential views towards the development from this conservation area. The built heritage report identifies that there is no visibility of the wider East Midlands Gateway (EMG) from this conservation area as a result of the earth bunding. However, the development would introduce a modern built form into what is presently an undeveloped rural setting to the south-east of this conservation area thereby affecting the positive contribution it makes to its setting. This impact would be reduced through the landscaping mitigation undertaken and the approach to the design of the unit on plot 12 whereby the high bay is situated away from the conservation area. Also when completed the unit at plot 12 would be viewed with the upper part of another building within the EMG site as well as being understood as part of the wider urbanised context of this conservation area setting, with such impacts being reduced over time as a result of the maturing of the landscaping. The built heritage report therefore concludes that the overall impact would be less than substantial to the significance of the immediate setting of this conservation area.

Notwithstanding the conclusions of the submitted built heritage report the Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area.

#### *Kegworth*

The supplementary landscape and visual note identifies that there are no potential views towards the development from this conservation area given the topography. The setting of this conservation area is also framed by existing built infrastructure. On this basis there is no harm to its significance.

The Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

#### *Lockington*

The supplementary landscape and visual note identifies that there are no potential views from the vast majority of this conservation area with only very limited views available from some properties situated towards the southern end of Main Street. Any views established will be towards the high bay of the unit and visible with unit 2.



Within the built heritage report it is stated that whilst the wider setting of this conservation area has been substantially urbanised, the immediate setting remains rural in character and there is no visibility of the existing development within the East Midlands Gateway (EMG) site. As a result of the development a small element of modern built form would be introduced into the present rural setting of this conservation area, thereby affecting the positive contribution it makes to its significance. This impact would be limited by virtue of the landscaping mitigation measures and the proposed approach to the height and massing of the proposal, whereby the high bay is situated on the southern part of the unit so as to be further from the conservation area. This separation will ensure that the high bay is seen distantly and over time will be softened by the maturing of the landscaping. The heritage report therefore concludes that the overall impact would be less than substantial to the significance of the setting of this conservation area.

The Council's Conservation Officer has stated that the unit would have a less than substantial impact on the setting of the Lockington conservation area in the short to medium term with this effect being reduced by screen planting in advance of the development.

#### *Long Whatton*

The supplementary landscape and visual note identifies that there are no potential views towards the development from this conservation area. On this basis there is no harm to its significance.

The Council's Conservation Officer has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

#### *Sawley*

The supplementary landscape and visual note identifies that there are no discernible views towards plot 12 although the high bay could potentially (most likely in winter) be distantly seen from this conservation area. Within such a view the development would be seen alongside unit 2 and other urban influences in the landscape. An additional built heritage report outlines that the proposal would be seen alongside unit 2 and potentially seasonably visible but this would comprise a neutral change to the setting of this conservation area and would result in no harm to its significance.

Erewash Borough Council has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

#### *Shardlow*

The supplementary landscape and visual note identifies that there are no potential views towards plot 12 from the vast majority of this conservation area, with only glimpsed and distant views (most likely in winter) possible from a very limited number of individual positions and properties on the south-eastern edge of this conservation area. Any views established would only be towards the high bay and viewed in conjunction with unit 2 and other urban infrastructure in the landscape. Within the additional built heritage report it is outlined that the development would comprise a neutral change within the wider setting of this conservation area with the proposal not appearing dominating or detracting from the conservation area's immediate setting. Consequently, there would be no harm to its significance.

South Derbyshire District Council has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

*Sutton Bonington*

The supplementary landscape and visual note identifies that there are no potential views towards the development from this conservation area. On this basis there is no harm to its significance.

No representation has been received from Rushcliffe Borough Council identifying harm to the significance of the setting of this conservation area.

*Trent Lock, Sawley*

The supplementary landscape and visual note identifies that there would be distant and restricted views towards the high bay of the unit across the Trent Valley floor from the southern part of this conservation area. Within such a view the proposal would be seen alongside and in front of unit 2, at a similar height, as well as other urban infrastructure. The additional built heritage report concludes that there would be a neutral change within the wider setting of this conservation area as a result of the development with no impacts on its immediate setting, on this basis there would be no harm to its significance.

Erewash Borough Council has not identified any harm arising to the significance of the setting of this conservation area and therefore the conclusions of the submitted information is accepted.

*Impact on Listed Buildings*

The submitted built heritage report concludes that the proposed development would have no harmful impact on the significance of listed buildings within the vicinity of the site. This is due to the substantial earth bunding constructed to the north and west of the site and the intervening vegetation ensuring that the proposal will remain screened in views of the immediate and wider settings of the listed buildings at ground level and will not affect their present contribution to their respective significance.

In the consideration of the application neither the Council's Conservation Officer or Historic England have raised any objections to the application in relation to its impacts to the setting of listed buildings and consequently it is considered that there is no additional harm to the setting of listed buildings over and above that previously assessed to be acceptable when the DCO was granted.

*Impact on Scheduled Ancient Monuments (Archaeological Sites of National Importance)*

The initial comments of Historic England (HE) outlined that the submitted information did not consider the impacts of the development on scheduled monuments in particular the enclosure castle at Castle Donington, Hemington Chapel and medieval settlement remains immediately east of The Wymeshead. Consequently, an objection was raised.

Following the receipt of additional information, HE has removed this objection and have specified that there would be no intervisibility between scheduled monuments and the unit proposed to plot 12 with the impact upon their wider setting being negligible. On this basis there

would be no additional harm to the setting of the scheduled ancient monuments over and above that previously assessed to be acceptable when the DCO was granted.

Impact on Registered Parks and Gardens

The Council's Conservation Officer has commented that Whatton House (Grade II) and Kingston Park Pleasure Gardens (Grade II) registered parks and gardens are within 5km of the site and the submitted information has identified that there is a theoretical visual impact to the setting of these assets.

For their part Historic England (HE) have raised no objections to the application in relation to the impacts on registered parks and gardens albeit HE generally would only assess the impacts to those registered parks and gardens which are registered Grade II\* or Grade I.

The Gardens Trust (GT), a statutory consultee on applications where a development will impact on registered parks and gardens, have also been consulted. Their consultation response is a joint response which also accompanies the comments of the Nottinghamshire Gardens Trust (NGT) and Leicestershire Gardens Trust (LGT).

In terms of Whatton House, which is covered by LGT, it is noted that the site is between 2.5 - 3km away. Whilst this is the case the geography of the land between Whatton House and the site, as well as the presence of an existing belt of trees to the north side of the House, would ensure that the proposed development would result in no additional impacts to the setting of the Whatton House registered park and garden over and above that previously assessed to be acceptable when the DCO was granted. Consequently, there is no objection from the GT and LGT in this respect.

With regards to the Kingston Park Pleasure Gardens (KPPG) the NGT have visited the site and have identified that there is clear inter-visibility between the location of plot 12 and the KPPG. Although the separation distance between the sites is about 4km the NGT and GT have commented that despite the gradation of the cladding the proposed building would appear as a substantial square edged structure on the horizon between farmland and the skyline with the KPPG being elevated and providing long *"commanding views to the south, west and east"* (Historic England register entry) over the Belper estates. It is further stated by the GT and NGT that it is unclear whether this heritage asset was given appropriate weight at the time of the determination of the DCO in 2016 but it is their view that the resultant development on the East Midlands Gateway (EMG) site has produced an impact on the setting of the KPPG.

Whilst the GT and NGT note the landscape mitigation for plot 12 they consider that is not explained from the perspective of the KPPG and therefore it unknown whether the bund and tree planting would protect the important views from the KPPG. Consequently, they consider that the proposal will add to the harm already caused to the setting of the KPPG.

In conclusion the GT and NGT object to the application based on the applicant failing to demonstrate that there will be no harm, or that mitigation measures (e.g. landscaping) will eliminate the harm. Whilst noting that the GT and NGT have identified that there could also be harm to the setting of Kingston Hall it is noted that Historic England (HE) have not raised any concerns to the setting of this asset in their consultation response.

The Council's Conservation Officer, in their consultation response, has commented that the proposed development would result in less than substantial harm to the significance of the setting of the KPPG.

In order to address the comments raised by the GT and NGT the applicant has subsequently submitted a KPPG heritage note and this outlines that HE identify that the principal aspects of the KPPG heritage significance is the intactness of the pleasure grounds and parkland, the association of the KPPG with Edward Blore and the unusual holistic design ethos applied to the landscape. As such the heritage significance of the KPPG is primarily embodied and understood from the designated areas, buildings and features of the KPPG itself.

It is further stated, within the KPPG heritage note, that the immediate setting of the KPPG comprises the village of Kingston on Soar and the surrounding agricultural fields which positively contribute to the significance of the KPPG through an appreciation of its historic context and development. Within KPPG wider setting, Ratcliffe on Soar Power Station is prominent to the north with other examples of modern development within views to the west and south-west. Given the distance between these areas and the KPPG they are experienced beyond the immediate agricultural fields and consequently comprise a secondary aspect of the setting of the KPPG which make no contribution to its significance.

Additional viewpoints have also been provided (taken from the north-western boundary of the KPPG along Gotham Road) and these show the agricultural fields which form the immediate setting of the KPPG and reflect its historic context. A band of trees and vegetation cut across the middle ground of the view and beyond this the upper parts of buildings within Kegworth (in particular the Refresco unit) are visible with the horizon line being punctuated by pylons and cabling along with existing buildings at the EMG and the King Street Plantation also visible. Such modern elements are experienced at the periphery of the view and as such do not affect the contribution or experience of the immediate undeveloped surroundings of the KPPG in this direction.

Whilst the KPPG heritage note acknowledges that the location of the majority of the parkland and terraces to the south-west are important to the design intention of Edward Blore, the views across the KPPG from Kingston Hall and its immediate rural setting will not be affected. Due to the distance between the KPPG and the site the proposed development will be partially experienced as part of the peripheries of this view, in conjunction with existing modern development already visible. Additionally, there is no impact as a result of the development on the ability to experience or understand the principal aspects of the significance of the KPPG.

The KPPG heritage note therefore concludes that the proposed development would comprise a neutral change within the wider setting of the KPPG which would not affect its significance.

Reconsultation has been undertaken with the GT and NGT on the KPPG heritage note and their revised comments are awaited. These comments will be reported to Members on the Committee update sheet.

### *Conclusion in Relation to the Impacts on the Historic Environment*

On the basis of the above it concluded that the high bay element of the proposed unit on plot 12, which would exceed the parameters set by the DCO by 15.8 metres, would result in less than substantial harm to the significance of the setting of Lockington Conservation Area and the Kingston Park Pleasure Gardens (KPPG) Grade II Registered Park and Garden.

In terms of the setting of the Lockington Conservation Area the Council's Conservation Officer has concluded that the impacts would be in the short to medium term and could be mitigated by the provision of planting in advance of the development. In this respect the Landscape and

Visual Impacts section of this report above outlines that amendments would be made to the landscaping on the northern bund to mitigate the impacts to the landscape character and visual amenities of Lockington with such landscaping introduced before the development is completed. Whilst therefore it is appropriate to still consider the short and medium term impacts the overall maturing of the landscaping on the bund would result in no impact to the setting of Lockington Conservation Area in the long-term (i.e. its immediate rural setting would be maintained).

The Gardens Trust (GT) and Nottinghamshire Gardens Trust (NGT) also outline that mitigation could be undertaken to reduce the impact on the setting of the KPPG. In this respect officers have been proactive in negotiating with the applicant so that additional tree planting, along with planting of mature trees, is undertaken on the bunds to the eastern boundary of the EMG site which would assist in screening the development.

As a result of there being 'less than substantial' harm to the significance of the setting of heritage assets Paragraph 196 of the NPPF would be engaged which outlines that:

*"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

The applicant has provided information from the future occupant of plot 12 which has sought to identify the public benefits arising from the development and these are identified as follows:

#### *Economic*

In its initial phase the building will employ 755 people which will increase as additional customers and products are incorporated. The occupant has also secured a contract from a customer whose business requires an efficient logistics solution capable of handling large volumes of stock and as such the building has been designed to have a high bay so as to accommodate a complex materials handling solution which is engineered to manage the volume of stock so that it is rapidly stored, sorted and dispatched accurately. Over half of the employees on the site will be stationed on a two-storey mezzanine with their role being to receive and dispatch goods to and from the high bay area of the building. If a building of a height compliant with the parameters was constructed the operational efficiencies would decrease and consequently its high capital cost would not be justified, with such a building also resulting in lower stock volumes and generating fewer jobs. On this basis it is the efficiency of the operation facilitated by the mechanical handling equipment in the high bay which generates the need for a larger number of employees.

#### *Environmental Benefits*

As explained in the submitted Planning Statement the occupant is in the process of reviewing their operations as part of a 'Go-Green' strategy which has involved a wholesale review of their processes as well as long-term expansion requirements. It is also the case that the occupant, as well as their customers, have a significant drive towards lowering carbon emissions as part of their activities. The unit proposed on plot 12 forms part of a wider logistics solution for a customer of the occupant and originally it was envisaged that three separate warehouses would be required. However, the provision of the high bay on the unit proposed to plot 12, with its resultant capabilities, combined with the construction of a similar new build in the south-east would negate the need for a third unit. There would also be the ability to link the two sites (plot 12 and the unit in the south-east) by road and rail which would result in a significant environmental benefit and overall saving in carbon emissions. Removing the need for the

construction of a third unit also has consequential environmental benefits, including reduced land take, given that such a unit could have been constructed on a greenfield site, and elimination of the carbon footprint associated with the construction and operation of a third unit. The East Midlands Gateway site also places the occupant close to their existing operation in the District and allows them to utilise the sustainable transport possibilities as a result of the rail freight interchange. The development therefore aligns with the occupant's 'Go-Green' strategy.

### *Consolidation of Activities*

The future occupant of plot 12 has a well-established presence within the District and as a result of the Covid-19 pandemic the move to 'e-commerce' has been being rapidly accelerated with such a change resulting in the increased need for logistics and warehousing space. Prior to the pandemic the occupant was looking to increase their presence within the Midlands with proximity to their customers and accessibility being key criteria for their logistics operation. Given such criteria plot 12 at the East Midlands Gateway (EMG), with its rail freight capabilities, was ideally located for the occupant's operation to be expanded and diversified with their customers keen to see the occupant secure logistics space as close to the airport and EMG as possible. The occupant has also identified, in a wider context, that they continue to experience severe staff shortages in other prime logistics locations in the south, but the EMG site has the benefit of a more accessible and available labour pool.

The consolidation and bolstering of the occupant's activities in the District will offer them new accessibility by the rail link, whilst also utilising their existing road and air networks, and will enable them to create additional jobs close to their existing workforce as well as taking advantage of the readily available labour pool.

It is considered that the above provides rationale for the provision of the high bay on the unit at plot 12 and are considered to be public benefits which would outweigh the harm to the significance of the setting of the identified heritage assets given that the extent of harm would be significantly reduced over time as a result of the provision of landscaping to the bunds as well as a need to support and assist businesses in the economic recovery process as a result of the Covid-19 pandemic. On this basis compliance with Paragraph 196 of the NPPF is achieved.

Overall, the development would accord with Policy He1 of the adopted Local Plan, Paragraphs 192, 193, 194, 196 and 200 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Design**

The need for good design in new development is outlined not only in adopted Local Plan Policy D1, as well as the Council's adopted Good Design for NWLDC SPD, but also Paragraphs 124 and 127 of the NPPF.

It is considered that the 'bulk' of the unit is simplistic in its design approach, being mainly rectangular in form, and would be devoid of openings with the exception of the cargo bay doors at ground floor level. It is considered that warehouse buildings are constructed to be functional and in the context of the development granted under the DCO, which the building would be visually associated with, it is considered that such a design approach would be acceptable given that it would be consistent with similar forms of development in the area.

The 'bulk' of the unit would be constructed from horizontally fitted metal cladding coloured, from top to bottom, as follows: -

- Hamlet (RAL 9002);
- Goosewing Grey (RAL 7038);
- Pure Grey (RAL 000 55 00);
- Merlin Grey (RAL 180 40 05);
- Anthracite (RAL 7016);

The use of such colours is consistent with those used on the other units within the estate and are considered appropriate in this instance given that they will set the building with the ground whilst merging its higher areas with the skyline. The use of such a colour palette would therefore have no significant impact on the character and appearance of the immediate area.

Whilst the majority of the unit would be simplistic in its design approach it is proposed that 'interest' would be added to its appearance by the provision of the office and transport office which would project forward of the southern (front) and eastern (side) elevations. It is considered that the provision of these features would assist in 'breaking-up' the monotony of the consistently flat elevations and is therefore welcomed in enhancing the appearance of the unit whilst providing clear and distinct entrance features. The provision of these offices would therefore have no adverse impact on the character and appearance of the unit to be created, with such features being consistent with other units on the estate, nor would their scale and design impact adversely on the appearance of the wider area.

In respect of the colour approach to the office elements of the building it is proposed that flat panel cladding which would be coloured mid-grey, yellow and red would be utilised with yellow cladding also being installed around the docking doors on the eastern (side) elevation. Similar colours have been utilised on units 1 (occupied by Amazon) and unit 2 (occupied by XPO/Nestle) so as to provide a 'corporate' identity to these units and consequently there would be no harm to the character and appearance of the unit, the overall industrial estate or the wider area as a result of the use of these colours.

Overall, the design and appearance of the building would be acceptable and would accord with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD and Paragraphs 124 and 127 of the NPPF.

### **Residential Amenities**

The nearest residential receptors to the site are those on Main Street, Lockington which are around 574 metres to the north-west of the site.

It is considered that the granting of the DCO has established that the overall development would have an acceptable impact on the amenities of neighbouring residents. In respect of the development proposed as part of this application it is considered that the separation distance involved to the nearest residential receptors, as well as the presence of the landscaping bund, would ensure that the increase in height of the unit on plot 12 within Zone A6 above the set parameter (being 15.6 metres at the highest part) would not result in any unacceptable overbearing, overshadowing or overlooking impacts to the amenities properties which would justify a refusal of the application.

Whilst Councillors Sewell and Hay have referred to overbearing impacts in their joint objection this is in relation to a 'visual' impact rather than a 'physical' impact. It is considered that Policy D2 of the adopted Local Plan covers overbearing in the physical sense (i.e. the proximity of the development to the boundary of residential receptor) and therefore could not be used as a Policy to resist the development in this respect. Visual Impacts are assessed in more detail in the '*Landscape and Visual Impacts*' section of this report above.

The Council's Environmental Protection team have also raised no objections to the development in relation to the proposed external lighting to the unit and within the plot with there being no additional noise, smell or dust impacts over and above them assessed to be acceptable when the DCO was granted.

On the basis that any permission is granted so as to adhere to the Requirements (planning conditions) outlined in the DCO it is considered that the proposal would accord with Policy D2 of the adopted Local Plan and Paragraph 180 of the NPPF.

In relation to the third-party representation submitted which has outlined that noise from the existing operations on the site results in detriment to residential amenities, it is noted that Requirement 23 of the DCO outlines that justified complaints in relation to noise nuisance will be investigated. It is considered that issues associated with existing noise levels are not material to the consideration of this application and if the third party was to submit a justified complaint in relation to noise from the existing operations then this would be a matter to be investigated against Requirement 23 of the DCO. Any permission granted would be subject to a condition which would match the terms of Requirement 23 of the DCO to ensure that the unit is appropriately controlled.

### **Highway Safety**

The impacts of the entire development on the highway network were assessed by the ExA in their consideration of the DCO where no significant concerns were raised subject to the relevant road improvements being carried out as part of the development, these road improvements have been subsequently undertaken and are now complete. As part of the consideration of this application both Highways England (HE) and the County Highways Authority (CHA) have been consulted and no objections have been raised.

The access arrangements would be as per those approved by the DCO and therefore there would be no greater impact on highway safety, over and above that already assessed to be acceptable, as a result of the increase in the height of the unit. On this basis the proposal would be compliant with Policy IF4 of the adopted Local Plan and Paragraphs 108 and 109 of the NPPF.

The application would also be subjected to a Section 106 agreement which would require the development to be tied to the Development Consent Obligations (DCOb) therefore ensuring that a travel plan is approved. Such a travel plan would ensure that sustainable transport options are utilised in line with the other units which operate from the wider site.

In terms of parking the plans submitted identify that the following off-street parking provision for vehicles would be provided: -

- 472 car parking spaces including 18 disabled and 6 electric charging spaces;
- 120 cycle parking spaces;
- 19 motorcycle/moped spaces; and
- 176 heavy goods vehicle (HGV) spaces.

Whilst the number of car parking spaces is below the 537 spaces recommended by the Leicestershire Highways Design Guide (LHDG) the CHA acknowledge that the requirements of the LHDG are maximum standards and consequently it would be unreasonable for the CHA to advise that the total number of car parking spaces be increased. Whilst this is the case the CHA outline that the applicant should consider the impacts any overflow parking would have on the



industrial estate highway network which is under private ownership. In this respect the private estate road is subject to restrictions which prevent the indiscriminate parking of vehicles with the roads also regularly patrolled by security staff. On this basis it is considered that the applicant has sought to propose a number of off-street parking spaces which meet the needs of any future occupant of the unit.

The CHA also stated that the number of cycle spaces should be increased to 160, so as to meet the requirements of the LHDG, with it also being requested that the number of electric charging spaces be increased. An amended plan submitted has increased the cycle parking to 160 spaces and whilst the number of electric charging spaces has not increased there is no requirement within the LHDG, nor the DCO, which require such spaces to be provided and consequently there would be no justification to refuse the application on this basis. It would also be possible for the site to be adapted at a later stage to provide further electric charging spaces should there be an increase in demand.

Subject to the imposition of conditions which require the off-street parking to be provided it is considered that the development would be compliant with Policy IF7 of the adopted Local Plan and Paragraph 105 of the NPPF.

### **Ecology**

In the assessment of the DCO the ExA concluded that ecological species would not be adversely impacted on as a result of the development with relevant Requirements securing ecological and biodiversity enhancements. It is considered that there would be no greater implications to ecological species, over and above those previously deemed acceptable, and as such no adverse impacts would arise to ecological species. On this basis the proposal would accord with Policy En1 of the adopted Local Plan, Paragraphs 170 and 175 of the NPPF and Circular 06/05.

### **Landscaping**

Requirement 8 of the DCO requires the submission of landscaping and ecological mitigation details and for certain phases of the development such landscaping has been agreed. The details for soft landscaping on plot 12 within Zone A6 have been submitted as part of the application and it is shown that such landscaping would be predominately provided in the northern and southern sections of the site, and is of a standard which is consistent with the soft landscaping provided to the other constructed plots. As part of the consideration of the application the County Council Ecologist has not objected, and the planting would not result in implications to Airport Safeguarding given that it is consistent with that planting elsewhere. On this basis a condition would be imposed for the soft landscaping to be provided.

As considered in the *Landscape and Visual Impacts* section of this report above, amendments to the soft landscaping on the bunds to the north of the site, around the settlements of Lockington and Hemington, would be undertaken to try and provide a more 'instant' impact in screening the proposed unit following its construction. This landscaping would be outside the boundaries of the application site and provided in accordance with Requirement 8 of the DCO. Whilst this is the case a 'Grampian' condition (i.e. a condition requiring works to be undertaken on land outside the confines of the application site) would be imposed on any permission granted to ensure that such soft landscaping is provided.

Details of the hard landscaping to be provided on the site have not been submitted at this time and consequently a condition would be imposed on any permission granted to secure a precise scheme of hard landscaping.

Subject to the imposition of such conditions the proposal would accord with Policies D1 and En1 of the adopted Local Plan.

### **Airport Safeguarding**

It was concluded by the ExA in their assessment of the DCO that *"the effects of the proposed development on civil aviation have been properly assessed in line with paragraph 5.59 of the NSPNN. The applicant and EMA have agreed that the protection of the airport authority is appropriately secured in the draft DCO...We conclude therefore that the proposed development would not significantly impede or compromise the safe operation of the EMA, in compliance with paragraph 5.63 of the NPSNN."* Relevant Requirements were then incorporated into the DCO to ensure that the finer details of the development were agreed with East Midlands Airport Safeguarding.

Accordingly, the matter for consideration as part of this application is whether the increase in the height of part of the unit above the parameter set, of 20.5 metres, now results in any greater impact on the safe operation of East Midlands Airport.

As part of the consideration of the application East Midlands Airport (EMA) Safeguarding have been consulted and initially they raised an objection as it was necessary for the applicant to demonstrate that they were committed to undertaking assessments in relation to the impacts of the building on Communication Navigation Surveillance (CNS) equipment and the Instrument Flight Procedure (IFP) protected area (if the height of the building including construction equipment exceeds 111 metres above mean sea level (AMSL)), it was also necessary to demonstrate that the materials of construction would not produce excessive glint and glare.

Following commitment from the applicant that such assessments would be undertaken, as well as it being demonstrated that the materials of construction would not cause glint and glare, EMA Safeguarding have removed their objection subject to the imposition of conditions on any permission granted. Such conditions would seek to ensure that the development accords with the site wide Bird Hazard Management Plan, that landscaped areas are appropriately managed and that appropriate soft landscaping is planted (i.e. species which would not attract flocking birds), that a windshear assessment is undertaken, that lighting plans are approved by EMA Safeguarding and that dust suppression is undertaken during the construction phase. Permits for tall equipment, cranes and equipment transmitting frequencies would also be required.

It is considered that such conditions would be imposed on any permission granted to ensure the safe operation of the airport although in terms of the windshear assessment it is noted that no such requirement was imposed within the DCO to secure such an assessment. On this basis it would only be reasonable for such a condition to state that the unit to be provided on plot 12 does not exceed 20.5 metres in height, the limit set by the Parameters, until a windshear assessment is submitted for approval.

On the above basis it is considered that the proposal would not impact adversely on the operational safety of the airport and as such the development would accord with Policies Ec5 and Ec6 of the adopted Local Plan.

### **Development and Flood Risk**

The building to be provided on plot 12 within Zone A6 lies within Flood Zone 1, and is therefore at the lowest risk of flooding, with the vast majority of the site not being impacted by surface water flooding as defined by the Environment Agency's Surface Water Flood Maps (overland flow routes may result in a medium to high risk of surface water flooding across part of the site).

The proposed floor space of the unit to be provided would not exceed the thresholds set by the parameters plans and therefore there would be no additional surface water run-off from the site over and above that previously assessed by the ExA to be acceptable subject to the inclusion of a relevant Requirement (no. 17) in the DCO. In any event the Lead Local Flood Authority (LLFA) have been consulted as part of this application and they have advised that they would have no objection based on the surface water management design submitted in support of the application, consequently the submitted scheme would be conditioned on any permission granted. On the above basis the proposal would accord with Policies Cc2 and Cc3 of the adopted Local Plan and Paragraphs 163 and 165 of the NPPF.

Insofar as foul drainage is concerned it is indicated that this would be discharged to an on-site foul drainage system which has a connection to the mains sewer. The foul drainage network associated with the site was approved under Requirement 19 of the DCO, in consultation with Severn Trent Water, and consequently there is capacity in the sewerage network to accommodate the waste associated with the unit which would be no greater than that deemed acceptable when the DCO was granted. On this basis the proposal accords with Paragraph 180 of the NPPF.

### **Other Matters**

The DCO was subjected to a Development Consent Obligation (DCOb), the equivalent of a Section 106 agreement, in order to assist in mitigating the impacts of the development. As a result of this it is proposed that any permission is granted subject to a Section 106 which will ensure that the development would be bound by the terms of the DCOb so as to ensure that the impacts of the development remain mitigated if the unit on Plot 12, Zone A6 is built in accordance with any permission granted as part of this application rather than that approved by the DCO. On the basis that such an agreement is secured the scheme would accord with Paragraphs 54, 55 and 56 of the NPPF.

It was concluded in the assessment of application reference 17/01165/FULM, for the provision of unit 2 which exceeded the parameters, that the consent granted would not set a precedent that alterations to the heights of other units would be acceptable. It is a fundamental tenet of the planning system that each application be assessed on its own merits and as outlined above it is considered that the provision of a unit on plot 12 within Zone A6 with an increased height is acceptable, notwithstanding the presence of the unit 2. As such it is determined that the consent granted under 17/01165/FULM has not established a precedent and going forward any permission granted as part of this application would not set a precedent that alterations to the heights of other units is acceptable.

Whilst Lockington cum Hemington Parish Council have requested a condition preventing the provision of advertisements on the northern elevation of the proposed unit it is considered that advertisements are covered by separate planning legislation (The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)) to those of a planning application and consequently the imposition of such a condition would be unreasonable and would not meet the tests outlined in Paragraph 55 of the NPPF. Although this is a case a note to the applicant would be imposed to make them aware of the request of the Parish Council.

### **Conclusion**

Whilst the application site is outside the Limits to Development, it is considered that the principle of the proposal has been established by the granting of the Development Consent Order (DCO). It is also considered that the increase in height of the unit on plot 12 within Zone A6, over and

above the Parameters set by the DCO, would not lead to detriment to residential amenities, landscape character, the visual amenities of the wider environment, heritage assets, highway safety, airport safety or landscaping, nor would the development further exacerbate any localised flooding impact. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions and the securing of a Section 106 agreement, is considered acceptable for the purposes of the aforementioned policies.

**RECOMMENDATION - PERMIT, subject to conditions and the completion of a Section 106 agreement;**

1. Time limit
2. Approved plans.
3. Travel plan.
4. Highway phasing.
5. Construction environmental management plan (CEMP).
6. Construction hours.
7. Construction noise levels.
8. External materials.
9. On-site landscaping.
10. Off-site landscaping.
11. Replacement landscaping.
12. Hard landscaping.
13. Boundary treatments.
14. Finished floor and ground levels.
15. Off-street parking.
16. Access gradient.
17. Obstructions to access.
18. External lighting.
19. Operational noise levels.
20. Mechanical and ventilation plant details.
21. Broadband reversing alarms.
22. Noise complaints.
23. BREEAM assessment.
24. Waste management scheme.
25. External storage.
26. Surface water drainage.
27. Foul drainage.
28. Windshear assessment.
29. Airport safeguarding.