

East Midlands Freeport
c/o Leicestershire County Council
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Mr Steffan Saunders,
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Sent via email to: local.plan@southderbyshire.gov.uk

**RE: East Midlands Freeport Response to the South Derbyshire's Local Plan Part 1 2022-2041
- Proposed Main Modifications**

East Midlands Freeport (EMF) is pleased to respond to South Derbyshire District Council's consultation on the proposed main modifications to the Draft Local Plan Part 1 Review prior to the submission of the Plan for independent examination.

EMF, approved by the UK Government and operational since 2023, represents a transformative opportunity to deliver sustainable and inclusive economic growth, create high-skilled jobs, and attract significant UK and international investment to the region. EMF encompasses three strategic sites: the East Midlands Airport and Gateway Industrial Cluster (EMAGIC) in North West Leicestershire, the Ratcliffe-on-Soar Power Station site in Rushcliffe, Nottinghamshire, and the East Midlands Intermodal Park (EMIP) in South Derbyshire.

EMF have previously submitted representations to the Local Plan Part 1 Review ('the draft Plan'), including, most recently, on the Publication Version in April 2025. As explained in that previous submission, EMIP is a critical element of EMF, and the proposed formal allocation of the site under Policy INF3 is welcomed, recognising its potential to contribute significantly to local and regional growth.

Following the completion of the Council's highways modelling work supporting the emerging Local Plan, comments are now invited on the proposed main modifications to the Plan, which will be submitted alongside the draft Plan for Examination. These representations outline:

- 1) our suggested amendments to Policy INF3, to improve its effectiveness and ensure consistency with national policy and the tests of soundness, to ensure alignment with the draft East Midlands Freeport Strategic Infrastructure and Contributions Supplementary Planning Document ('EMF

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SPD') and help ensure the longevity of key principles contained in the EMF SPD when the emerging local plan is adopted (when the EMF SPD will, subject to any legislative changes, cease to have effect pursuant to paragraph 6, Schedule 1 of the Levelling-up and Regeneration Act 2023 (Commencement No 11 and Saving and Transitional Provisions) Regulations 2026; and

- 2) our suggested amendments to the explanatory text to INF1, to make it clear that planning obligations and contributions towards infrastructure identified in site specific policies, including INF3 and the EMF Infrastructure Delivery Plan ('EMF IDP'), may be required from other development. This will make it clear to landowners and developers promoting the development of land outside the INF3 allocation that they may be required to contribute towards strategic transport infrastructure being delivered pursuant to INF3 and the EMF SPD where that development will be unlocked by or significantly benefit from that infrastructure. This is in line with the EMF SPD. The EMF IDP, which is, prior to endorsement and publication, to be the subject of public consultation in late 2026/early 2027, will identify, so far as reasonably practicable at that stage, which sites are intended to contribute towards items of strategic transport infrastructure identified in the EMF IDP.

Such amends would make it clear that all development identified in the EMF SPD must contribute towards strategic transport infrastructure, ground conditions and remediation work , on a fair, consistent and proportionate basis.

INF1 – INFRASTRUCTURE AND DEVELOPER CONTRIBUTIONS

As explained at the start of this letter, we think it would be helpful to include reference, in the explanatory text to INF1, to the possibility of planning obligations being sought towards infrastructure identified in site specific policies, including INF3 and the EMF IDP. The EMF SPD makes it clear that development of land outside the EMF tax sites, which will significantly benefit from or be unlocked by strategic transport infrastructure which is being delivered as part of the development of the EMF sites, will also be expected to contribute towards that strategic transport infrastructure. Including appropriate wording in the explanatory text to INF1 ensures that landowners and developers proposing development outside the INF3 allocation are aware that they may be required to contribute towards that infrastructure. This is in line with the EMF SPD. The EMF IDP, which is to be the subject of public consultation in late 2026/early 2027 prior to endorsement and publication by the Council, will identify, so far as reasonably practicable at that stage, which sites are intended to contribute towards items of strategic transport infrastructure identified in the EMF IDP.

The amendment proposed is to the explanatory text at paragraph 10.13 (proposed new wording in **bold**):

'10.13 Planning Obligations may be sought from any development that has an impact requiring mitigation. **This will include Planning Obligations towards infrastructure identified in site specific policies including INF3 East Midlands Intermodal Park Strategic Rail Freight Interchange/East Midlands Freeport and the IDP prepared pursuant to that policy.**'

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INF3 – EAST MIDLANDS INTERMODAL PARK / EAST MIDLAND FREEPORT

Located adjacent to the nationally significant Toyota manufacturing plant, EMIP has the potential to become one of the next generation of rail connected employment parks. The proposed investment would also enable a significant modal shift, from road to rail freight, reducing carbon emissions for businesses within the region. The site provides the opportunity to deliver automotive and advanced manufacturing while supporting the more established markets in the region and delivering a rail connection as part of the development.

EMF welcomes the formal allocation of EMIP under amended Policy INF3, reflective of our December 2024 representations, which emphasised the need for further certainty and a policy status which better reflects EMIP's strategic status and its economic potential. Some of our comments, including those in the April 2025 representations, however, remain unaddressed and have not been put forward as modifications at this stage.

For information as technical work progresses the primary access arrangements for EMIP are currently under consideration as part of final detailed feasibility, options including direct access from the existing interchange and also the potential of crossing the A38 and or A50 providing effective and efficient use of the existing infrastructure. EMF are actively engaging with surrounding landowners. This work will be subject to detailed technical assessment, design, and consultation with the relevant statutory authorities.

Given EMIP's status as a formal allocation Policy INF3 needs more specificity and a coherent policy framework to guide and facilitate delivery. As such, the policy needs amendments in order to accord with the NPPF's tests of soundness.

These amendments comprise the following:

(1) *NSIP Referencing*

The draft policy still maintains that development at EMIP will be a Nationally Significant Infrastructure Project (NSIP). As explained in our previous submissions, while we are committed to delivering a rail connection as part of the development, there remains the potential for alternative consenting options to be pursued, as development may not meet the qualifying criteria of NSIP as set out in the Planning Act 2008. In such a scenario, any development may need to be consented under the Town and Country Planning Act 1990 (as amended). The policy therefore needs to ensure flexibility and remove definitive references to EMIPs status as a NSIP which are misleading.

(2) *Rail Connectivity*

Criterion (B) of Policy INF3 should be amended to be consistent with the National Networks NPS (March 2024). Criterion B of the Local Plan policy sets out the elements of the development '*to be completed before any business units are occupied*', including an operational rail connection.

EMF has two concerns relating to this criterion:

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- (i) It is inconsistent with national planning policy. The National Networks NPS (which sets out the Government's policies on the provision of SRFIs), recognises that applicants may need to deliver accommodation ahead of the final delivery and commissioning of connections to the rail network coming forward (See Paragraph 4.88 of the NPS). The current proposed NSIP application has been held in abeyance for a prolonged period and does not "designate" the potential EMIP scheme as a NSIP, rather that was the intention at that particular time for the scheme. It is important that flexibility is retained and it would not be a sound approach to restrict other consenting route options.
- (ii) Reflecting the economic importance of EMIP, the policy must afford appropriate flexibility to support the delivery of employment led development that could achieve EMF objectives whilst at the same time, not prejudicing the ability for a rail connection at EMIP to be achieved in the future. This is particularly important given the potential of the site to support and complement existing employers in the area, including Toyota, recognised as a major inward investor at Paragraph 2.9 of the draft plan and whose plant lies immediately north of the EMIP site.

(3) Strategic Transport Infrastructure Contributions

Additional text is recommended for inclusion in Policy INF3 which would recognise the need for pooled contributions on a fair and equitable basis towards strategic transport infrastructure required for the development of this site, the other sites comprising the East Midlands Freeport, and other benefitting development.

To form paragraph D of Policy INF3, the following text is suggested:

'All development should contribute on a fair, consistent and proportionate basis towards strategic transport infrastructure, remediation and/or ground condition work requirements, including, where appropriate, where any of these items have been forward funded or delivered by others but is necessary for the delivery of the development of the allocation site as a whole.'

A minor amendment is also proposed to paragraph Cii) of Policy INF3 as follows (new wording in bold):

- ii) there shall be no undue amenity, safety or highway impacts including noise, vibration, odours, light pollution and traffic generation, **taking into account cumulative development on the wider highways network and set within a monitor and manage framework relating to both the Strategic Road Network and Local Highways Network;**

In addition to the policy wording, we would suggest the following wording is added to the policy explanatory text (as a new paragraph 10.26):

'To ensure that all development within this site and within the other sites designated as part of the East Midlands Freeport (as well as other sites which will be unlocked by or significantly

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benefit from the same, including strategic allocation sites and other major development sites) contributes on a fair and equitable basis towards strategic transport infrastructure required for the development of this site, it is expected that an overarching common framework Section 106 agreement approach will be applied to such development. This approach will include the joint preparation by the local planning authorities for the East Midlands Freeport sites of a template framework Section 106 agreement which shall be used as a base for all Section 106 agreements relating to such development save exempt development (being non-residential development of less than 1,000 square metres or residential development of less than 10 dwellings, unless a larger development above these thresholds has been sub-divided into smaller developments which shall not be exempt.)

The framework Section 106 agreement approach will be supported by an Infrastructure Delivery Plan (IDP), also developed jointly by the local planning authorities for all the East Midlands Freeport sites, which will set out the strategic transport infrastructure required to deliver and operate this site and the other East Midlands Freeport sites and identify, as far as reasonably practicable at that stage, which other strategic allocation sites will be expected to contribute towards any of that strategic transport infrastructure. This IDP may be updated by the local planning authorities no more than annually, unless circumstances indicate an interim review is necessary with such revisions being consulted upon by the local planning authorities as appropriate and then published.

The template framework Section 106 agreement is expected to include the following key terms:

- (i) payment of Section 106 contributions towards strategic transport infrastructure (informed by the IDP) together with an acknowledgement that such contributions may be used to repay forward funders of the strategic transport infrastructure;*
- (ii) works in kind, which may be permitted at the discretion of the local planning authority and highways authority instead of payment of all or part of some Section 106 contributions;*
- (iii) equalisation provisions requiring landowners and developers to submit to dispute resolution where the local planning authority or highways authority confirms that there is a need for the landowner or developer to enter into an equalisation agreement and it has not been entered into within a reasonable period of time; and*
- (iv) access provisions, requiring access to be made available at nil cost for the purpose of delivery of any strategic transport infrastructure and requiring access to be provided to adjacent parcels of land.*

A monitor and manage approach will be adopted to inform the timing of necessary strategic highways infrastructure improvements, including assessment in relation to the Local and Strategic Road Networks. A monitor and manage framework is an evidence-led, flexible approach which involves monitoring traffic and implementing measures at the required time.

Any contributions will be provided in accordance with the framework Section 106 approach described above. Strategic transport infrastructure and associated mitigation will be delivered in accordance with schemes approved by National Highways and the relevant Local Highway Authority, and frameworks for the Strategic and Local Highway Networks.

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Development within this site will also be expected to contribute towards or deliver site specific infrastructure via the framework Section 106 Agreement including infrastructure required pursuant to Policy INF1. The land on which any strategic infrastructure is located will be provided and/or transferred to the local planning authority, the highways authority or National Highways for nil value. ”

Taken together, EMF propose an alternative wording to Policy INF3 (proposed amendments shown in red):

REVISED POLICY INF3

EAST MIDLANDS INTERMODAL PARK/EAST MIDLANDS FREEPORT

- A *Land is allocated for the development of East Midlands Intermodal Park Strategic Rail Freight Interchange/East Midlands Freeport as shown on the Policies Map. **This development may be taken forward as a Nationally Significant Infrastructure Project or via another consenting route.***
- B *The Site is considered suitable for B2 and B8 employment use and should:*
- (a) **bring significant inward investment, local employment, and training benefits for the local community and the wider region; and***
 - (b) **(i) be rail served (i.e. requiring on-site access to a railway); or
(ii) be of a layout and scale that would not prejudice the ability to facilitate a rail connection at any time in the future***
- C *The development within shall meet the following criteria:*
- i. **An acceptable means of access to the trunk road network and parking and associated facilities for all goods vehicles shall be provided and operational arrangements shall minimise the use of local highways by heavy goods vehicles; and***
 - ii. **there shall be no undue amenity, safety or highway impacts including noise, vibration, odours, light pollution and traffic generation, taking into account cumulative development on the wider highways network and set within a monitor and manage framework relating to both the Strategic Road Network and Local Highways Network; and***
 - iii. **the proposal shall be well designed and shall not cause undue harm to the character of the local landscape and shall contribute toward landscape scale enhancement in accordance with the Trent Valley Vision; and***
 - iv. **the proposal shall preserve the character or setting of any listed buildings, conservation areas or other heritage assets; and***
 - v. **the proposal shall not cause undue harm to features of ecological or environmental value and shall contribute toward the delivery of green infrastructure; and***
 - vi. **appropriate provision shall be made to meet biodiversity net gain requirements as***

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- vii. *part of a wider network in the Trent Valley; and the proposal shall not increase the surface water run-off rate from the site and shall not increase flood risk elsewhere; and*
- viii. *any new built development, other than that required for flood mitigation or recreation purposes, shall be limited to the area to the north of the Derby-Crewe railway line; and*
- ix. *the area to the south of the Derby-Crewe railway line shall be reserved for blue and green infrastructure and shall be made publicly accessible for recreational purposes; and*
- x. *provision shall be made for convenient and safe access to the site on foot, by cycle and by public transport (potentially including passenger rail if feasible), including Key and Local Cycle Network routes connecting to population centres and bus services connecting to Willington railway station and population centres, including Swadlincote.*

- D.** *All development should contribute on a fair, consistent and proportionate basis towards strategic transport infrastructure, remediation and/or ground condition work requirements, including, where appropriate, where strategic transport infrastructure, remediation and/or ground condition work has been forward funded or delivered by others but is necessary for the delivery of the development of the allocation site as a whole.*

This is in addition to the proposed new paragraph 10.26 set out above.

SOUTH DERBYSHIRE INFRASTRUCTURE DELIVERY PLAN

EMF welcomes the production of an Infrastructure Delivery Plan (IDP) and we have provided initial comment on the emerging document. As referred to above there will also be an EMF IDP which is being prepared and is expected to be ready for public consultation in late 2026/early 2027. It is anticipated that the EMF IDP would be endorsed by the Council in due course and once endorsed and published the EMF IDP will inform the EMF SPD which will be a material planning consideration in the decision making process for SDDC.

REGIONAL INFRASTRUCTURE PLANNING

Highway modelling work is currently being undertaken by EMF across its geography partnership with the existing regional transport authorities and EMCCA. This will help to form a basis for collaborative network planning going forward and the EMF IDP.

It is essential that the cross-boundary infrastructure is planned, mitigated and delivered in a coordinated manner, supported by the right infrastructure evidence. As such a consistent policy across each of the Local Plans will be necessary.

SUMMARY

EMF welcomes the allocation of the EMIP in South Derbyshire's Local Plan Part 1 Review and the support under Policy INF3 for the delivery of this strategically important development. However, as currently drafted, the policy requires amends in order to meet the tests of soundness contained in the

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NPPF.

EMF values our strong partnership with South Derbyshire District Council and remains committed to working collaboratively to achieve our shared goals. We would welcome a discussion about how the points raised in this letter can be reflected appropriately in the Local Plan and look forward to continued dialogue as the Plan progresses.

Yours sincerely



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