

**LAND WEST OF STAPLEFORD LANE,
STAPLEFORD, NOTTINGHAMSHIRE**

APPEAL REFERENCE: 6006412

CLOSING ON BEHALF OF NOTTINGHAMSHIRE COUNTY COUNCIL

Introduction

1. Prior to the submission of the application subject of this appeal, throughout the currency of the planning application, throughout the currency of the appeal and since the commencement of the Inquiry, Nottinghamshire County Council (“NCC”) in its capacity as local highways authority has been clear and consistent about the scope of highways work it required the Appellant to produce in order to allow the highways impacts, in particular the cumulative highways impacts, of the proposed development to be properly assessed.
2. In accordance with the timetable set down following the first day of the Inquiry the necessary highways assessment work has been completed, over a year since it was first promised by the Appellant. What that work demonstrates is that whilst in isolation the appeal proposal would not have a severe impact on the highways network, it would have a severe impact in combination with the other allocated sites which makes up the Toton Strategic Location for Growth (“SLG”) in the development plan. The work therefore demonstrates that there is a need to secure now a mechanism for the delivery of appropriate mitigation and to control the delivery of the appeal proposal to ensure that a severe cumulative impact does not arise.
3. NCC has engaged with the Appellant, National Highways and the LPA and have agreed the text of a condition which requires the submission of, approval of and

delivery of a Strategic Highway Assessment and Mitigation Strategy (“SHAMS”). Subject to the imposition of that condition, NCC has no objection to the grant of planning permission.

The need for a cumulative highways impact assessment

4. In opening and the PoE of Alyn Nicholls the local policy requirement for a cumulative assessment is addressed at length. In closing NCC relies on those submissions and that evidence.
5. There is no ambiguity in the development plan, cumulative assessment is required. The position is succinctly stated in the ACS Part 2 which contains the key development requirements for the Toton SLG at policy 3.2¹. This states: “*Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area as progressed through the Gateway Study and transport modelling*”. That is a clear requirement for a cumulative assessment of highways impacts. The supporting text recognises that highway improvements “will be required”². At the close of the Inquiry it remains unclear to NCC how the Appellant could have ever credibly maintained an argument that local policy did not require a cumulative assessment.
6. The local policy position continues to be reinforced by national policy. TR6 of the revised NPPF continues the requirement in the previous NPPF to consider cumulative impacts at the application stage:

“3. *In assessing movement patterns and potential impacts, including whether they are considered to be severe, reasonable future scenarios should be considered, taking into account impacts at relevant times of the day, **potential cumulative impacts**, multimodal trip generation and the promotion of sustainable modes of travel, and realising the transport vision for the development itself. Development proposals should be considered having regard to these potential impacts and the other policies in this Framework which are relevant (including TR3, TR4 and DP3(2)(d)).*

¹ CD 6.02, page 32 - 36

² *Ibid*, para 3.33, page 41

*4. Development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, **including cumulative impacts**), or an unacceptable impact on highway safety; taking into account any mitigation measures proposed as well as any wider network improvements, including measures to support sustainable patterns of movement. This applies both during the construction phase and following completion.” (my emphasis)*

7. As with the development plan there is no ambiguity in these policies. The transport assessment supporting the appeal proposal had to assess cumulative impacts and if it didn't or the cumulative impacts were shown to be severe, those are both grounds for the refusal of planning permission. Again, at the close of the Inquiry it remains unclear to NCC how the Appellant could have ever credibly maintained an argument that national policy did not require a cumulative assessment.
8. The reality is that the Appellant, or at least its highways consultant, has always recognised the need for the cumulative assessment:
 - a. The need for a full cumulative assessment of the Toton and Chetwynd allocations was recognised in the Transport Assessment submitted with the planning application³ and in light of this the Transport Assessment described itself as “*an initial assessment only*”⁴ and repeatedly recognised that it would require updating⁵;
 - b. The Transport Assessment update submitted in January 2026 did not contain a complete assessment of the cumulative impacts of the Toton and Chetwynd Allocations and made it clear its purpose was “*to assess the merits of the proposed development at Toton West independently to the wider Toton development parcels*”⁶. It reaffirmed that a wider cumulative assessment was being progressed: “*As aforementioned, a wider assessment is currently being progressed by mode, in which developments at Toton West, Toton East and*

³ CD 2.10.1

⁴ *Ibid* para 4.7, page 21

⁵ For example paras 4.6, 4.42, 4.43 and 5.6

⁶ CD 4.06 (A), para 1.2.7, pdf page 8

Toton North will be cumulatively assessed, using the NCC approved East Midlands Gateway Model (EMGM).’’⁷; and

- c. The Appellant’s Statement of Case repeatedly promised further cumulative assessment work was ongoing and would be provided once completed⁸.
9. The need for a cumulative assessment has always been obvious as has the need to secure any mitigation that such work identifies as being necessary.

NCC Engagement

10. A full chronology of NCC’s engagement with the Appellant regarding highways matters is set out in the PoE of Jan Witko at section 4.3 and was summarised in opening so is not repeated here.
11. Since the opening of the Inquiry NCC has continued to engage with the Appellant, met the deadlines set by the Inspector and that engagement has led to the resolution of the highways disputes by agreeing an appropriately worded condition.
12. In order to get to that stage NCC has had to review extensive technical material which should all have been submitted at the application stage. There was no requirement for NCC to adopt such a reasonable approach. The PINS guidance on appeals is clear that an appeal should not be lodged by an Appellant until it is supported by the necessary evidence: *“There is normally no opportunity to add to the statement of case later so the appellant should only make their appeal when they are sure they have finalised their case.”*⁹
13. Whilst the Appellant could and should have submitted the cumulative assessment work during the currency of the application not the appeal, NCC has taken the entirely pragmatic approach to engage with the Appellant to resolve matters cognisant of the

⁷ CD 4.06 (A), para 1.4.2, pdf page 9

⁸ CD 9.15, paras 1.26, 1.27, 9.8

⁹ <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england> at 11.5.5

fact that the appeal site is an allocated one and the cumulative impacts of the Toton SLG schemes need addressing.

The Highways Impacts

14. Since the original submission of the planning application extensive additional highways work has been submitted¹⁰:

- Revised Transport Assessment, produced by mode transport planning – (Ref: 260216_328827_TA R004 Rev A) Dated: 16/02/2026;
- Revised Residential Travel Plan, produced by mode transport planning – (Ref: 251222_328827) Dated: 22/02/2025;
- Original Environmental Statement Addendum Highways Chapter (Chapter 9), produced by mode transport planning (Ref: P23-2379) Dated: 23/12/2025;
- Post-Application Technical Note - Highways Response to Consultee Comments, produced by mode transport planning (Ref: 260417_328827_TN003) Dated: 17/04/2026;
- Post-Application Technical Note - Highways Response to Additional Consultee Comments, produced by mode transport planning (Ref: 260624_328827_TN004) Dated: 24/06/2026;
- Toton Development Strategic Assessment Technical Note - Area of Influence Calibration & Validation Assessment, produced by SYSTRA (Ref: TN01 V1.3) Dated 23/10/2025;
- Toton Development Strategic Assessment Technical Note – Reference Case Assumptions, produced by SYSTRA (Ref: GB01T25H56 – TN02) Dated 13/11/2025;
- Toton Development Strategic Assessment Technical Note – Reference Case Report, produced by SYSTRA (Ref: TN03 V1.2) Dated 27/02/2026;
- Original Toton Development Strategic Assessment Technical Note – Toton Strategic Modelling Report, produced by SYSTRA (Ref: TN04) Dated 19/05/2026;
- Revised Toton Development Strategic Assessment Technical Note – Toton Strategic Modelling Report, produced by SYSTRA (Ref: TN04 V2.0) Dated 15/07/2026;

¹⁰ The full list of submitted highways work is contained in ID18 para 2.1.1

- Post-Submission Technical Note – EMGM Scenario One – Junction Capacity Assessments, produced by mode transport planning (Ref: 260812_328827_TN005) Dated: 12/08/2026;
- Post-Submission Technical Note – EMGM Scenario One – Junction Capacity Assessments to Align With TA, produced by mode transport planning (Ref: 260821_328827_TN006) Dated: 21/08/2026;
- Post-Submission Technical Note – EMGM Scenario Four – Junction Capacity Assessments, produced by mode transport planning (Ref: 260902_328827_TN008) Dated: 02/09/2026; and,
- Post-Submission Technical Note – EMGM Scenario Four – Bramcote Roundabout , produced by mode transport planning (Ref: 260911_328827_TN009) Dated: 11/09/2026.

15. The key outcomes of that additional work were delivered through three modelling scenarios, the outputs of which are summarised as follows:

- a. Scenario 1 (as outlined in TN005 and TN006) demonstrates that the appeal proposal, considered in isolation, can be accommodated at the local junctions selected through the Scenario 1 Area of Influence without severe residual impact on the County Road Network. This scenario does not, however, identify when subsequent development across the wider strategic growth area requires the strategic links or how those links would be secured.
- b. Scenario 3 (as outlined in TN004) considers the appeal proposal as part of the wider strategic growth area and demonstrates the necessity of the Toton Link Road and the role it plays in distributing traffic across the wider highway network. It does not include a connection to the Chetwynd site, and therefore traffic is unable to distribute as efficiently as possible. This results in residual issues across the County Road Network, including the B6003 and Swiney Way.
- c. Scenario 4 (as outlined in TN008 and TN009) considers the same quantum of development as Scenario 3 but provides a connection from the Chetwynd site to the link road. This provides strategic connectivity between development parcels, facilitates internal movement across the strategic growth area and materially alters the

distribution of traffic across the County Road Network, particularly on the B6003 corridor and surrounding local routes.

d. Whilst Scenarios 3 and 4 demonstrate how the wider allocation may operate with the strategic infrastructure in place, they do not identify the point at which that infrastructure becomes necessary, the level of development that can be accommodated before its provision is required, or the mechanisms through which its delivery will be secured.

16. The cumulative outcome of this work is therefore that:

- a. The appeal proposal in isolation does not cause a severe harm to the highway network;
- b. Cumulatively the Toton SLG would cause a severe harm the highway network;
- c. Mitigation, principally the delivery of the Toton link road, is necessary to prevent the severe cumulative impacts from arising;
- d. There is currently uncertainty as to when mitigation becomes necessary to prevent severe impacts from arising and so there is a need for further assessment work; and
- e. There is a need to secure the carrying out of that further work, the approval of its outcomes and the delivery of the necessary mitigation.

17. NCC are content that the proposed SHAMS condition properly addresses all these issues. It front loads the submission of the SHAMS by tying it to the submission of reserved matters, it details what further work is required, it secures the identification of the timing of the mitigation work and its delivery mechanism and it places a control on the delivery of the appeal proposal by preventing more than 300 dwellings from being occupied until the SHAMS is secured.

18. Imposition of the SHAMS condition is plainly necessary, reasonable and complies with all other relevant tests. Simply put the appeal proposal contributes to the cumulative impacts and it must therefore contribute to addressing them.

Conclusion

19. It is unfortunate that the Appellant did not deliver on the promises made in the transport assessments submitted with the planning application during the currency of the planning application. Be that as it may, NCC have at all times taken the pragmatic approach of continuing to engage with the Appellant. This has led to the production of extensive new technical evidence in light of which NCC is content to remove its objection to the grant of planning permission subject to the imposition of the SHAMS condition.

FREDDIE HUMPHREYS

14 October 2026

Kings Chambers

Manchester – Leeds – Birmingham – London