

## **Anticipated acquisition by Breedon Aggregates Limited of Hope Construction Materials Limited**

### **Decision on relevant merger situation and substantial lessening of competition**

**ME/6566/15**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 12 April 2016. Full text of the decision published on 30 June 2016.

**Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.**

#### **SUMMARY**

1. Breedon Aggregates Limited (**Breedon**) has agreed to acquire Hope Construction Materials Limited (**Hope**) (the **Merger**). Breedon and Hope are together referred to below as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties will cease to be distinct as a result of the Merger, that the turnover test is met and that accordingly arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the supply in Great Britain (**GB**) of: (i) primary aggregates which are used as base materials in the construction of roads, buildings, and other infrastructure. These are quarried from land or dredged from the sea; and (ii) ready mixed concrete (**RMX**), which comprises a mix of aggregates, cement, and water supplied in a ready-mixed form.
4. In addition, Hope is a producer of cement and Breedon is a producer of asphalt in GB. The CMA considers that the Merger will also create new vertical linkages since: (i) cement is a key input in the production of RMX; and (ii) primary aggregates are a key input in the production of RMX and asphalt.
5. The CMA has therefore assessed the impact of the Merger in relation to the following frames of reference.

## **Aggregates**

6. The CMA believes that the appropriate product frame of reference for primary aggregates includes: (i) all types of primary aggregates (i.e. sand, gravel and crushed rock); and (ii) all grades of primary aggregates (i.e. fine, coarse, graded/mixed aggregates). The CMA also believes that all sources of aggregates, including primary, secondary and recycled aggregates are part of the same product frame of reference. However, the CMA has focussed its assessment on the degree of competition that exists between producers of primary aggregates.
7. The CMA believes that the appropriate geographic frame of reference for primary aggregates is local. The CMA used the following catchment areas around each primary aggregates site as a starting point for its local competitive assessment: (i) [X] miles; and (ii) [X] miles.

## **RMX**

8. The CMA considers that the appropriate product frame of reference for RMX includes: (i) all types of RMX; and (ii) all RMX produced by fixed plant, mobile plant or by volumetric truck. However, the CMA has focussed its assessment on the degree of competition that exists between producers of RMX from fixed sites.
9. The CMA believes that the appropriate geographic frame of reference for RMX is local and used the following catchment areas around each fixed RMX site as a starting point for its local competitive assessment: (i) [X] miles; and (ii) [X] miles.

## **Asphalt**

10. The CMA believes that the product frame of reference for asphalt includes all specifications of asphalt, including asphalt supplied by fixed and mobile plants. The CMA also believes that geographic markets are local, as asphalt is a perishable product that must be delivered hot.

## **Cement**

11. The CMA believes that the product frame of reference for cement includes the supply of: (i) bulk cement (including all types of cement and both domestically-produced and imported cement); and (ii) bagged cement (including all types of cement and both domestically-produced and imported cement). The CMA

also believes that the appropriate geographic frame of reference for cement is GB.

12. Whilst the CMA notes that it is not necessary to reach a conclusion on the product or geographic frame of reference for aggregates, asphalt and cement in this case, since no competition concerns arise in relation to the supply of these products, the CMA has not materially diverted from the product and geographic frames of reference used in the prior OFT, CC, CMA and European Commission decisions relating to this industry.
13. The CMA considered the following theories of harm (**TOH**) in assessing the effect of the Merger.

### **Horizontal unilateral effects arising from the loss of existing competition in the production and supply of RMX at the local level**

14. The CMA assessed whether there is a realistic prospect that the Merger will result in a substantial lessening of competition (**SLC**) in the supply of RMX at the local level, as a result of the merged firm increasing the price of its RMX (or otherwise worsening its competitive offer), due to the loss of existing competition between the merging Parties.
15. Out of 222 operational, mothballed, closed and planned<sup>1</sup> fixed RMX sites owned by the merging Parties, the CMA identified 84 RMX sites where the Parties overlapped. The CMA applied filters to identify those sites that required a more detailed competitive assessment. The Parties provided data on the number and location of fixed RMX sites as site level production data for different RMX sites in an area was not available through third party providers. Having applied the filters, the CMA carried out a more detailed local competitive assessment of 64 sites.
16. As a result of these investigations, the CMA concluded that there are 27 sites where it believes there is a realistic prospect that the Merger will give rise to an SLC in the supply of RMX in the local areas. The Annex to this decision set out the CMA's local competitive assessment for each site.

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<sup>1</sup> This included six new RMX sites that opened during the course of the CMA's inquiry as well as a further 4 Hope sites and one Breedon site that the Parties were planning to open at the time of notification.

## **Horizontal unilateral effects arising from the loss of existing competition in the production and supply of aggregates at the local level**

17. The CMA assessed whether there is a realistic prospect that the Merger will give rise to an SLC in the supply of primary aggregates at the local level, as a result of the merged firm increasing the price of its primary aggregates products (or otherwise worsening its competitive offer), due to the loss of existing competition between the merging Parties.
18. Out of 61 operational and planned primary aggregates sites<sup>2</sup> owned by the Parties, the CMA identified 28 primary aggregate sites where the Parties overlapped. The CMA applied filters to identify those sites that required a more detailed competitive assessment and found that, having applied those filters, five sites required a more detailed assessment. As a result of these investigations, the CMA concluded that there would be a sufficient number of close competitors remaining in each of these areas capable of providing a sufficient competitive constraint on the merged firm. As such, the CMA believes that there is no realistic prospect of an SLC arising in the supply of primary aggregates in any local area as a result of the Merger.

## **Vertical effects arising through input foreclosure of primary aggregates into RMX at the local level**

19. The CMA considered whether the Parties' presence in both the production and supply of primary aggregates (upstream) and the production and supply of RMX (downstream) may give rise to input foreclosure of downstream rival RMX producers. On the basis of the evidence it found during its investigation, the CMA believes that the merged firm would not have the ability to engage in input foreclosure, given the Parties' combined production shares of primary aggregates and the number and location of competitors in the supply of primary aggregates within each local area where there was a vertical overlap, indicates that the Parties would not have sufficient market power to be able to foreclose downstream RMX producers. As such the CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of primary aggregates to downstream competitors in RMX supply at the local level as a result of the Merger.

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<sup>2</sup> This included Breedon's 28 operational quarries, five Hope aggregates quarries, four Hope operational aggregates depots and one Hope aggregates wharf. Hope also had two depots in the process of opening (Theale and Stratford) and one depot in [REDACTED].

## **Vertical effects arising through input foreclosure of primary aggregates into asphalt at the local level**

20. The CMA considered whether the Parties presence in both the production and supply of primary aggregates (upstream) and the production and supply of asphalt (downstream) may give rise to input foreclosure of downstream rival asphalt producers. On the basis of the evidence it found during its investigation, the CMA believes that the Parties would not have the ability to engage in input foreclosure, given the Parties' combined production shares of primary aggregates in each area where there was a vertical overlap, indicating that the merged firm will not have sufficient market power to be able to foreclose downstream asphalt producers. As such the CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of primary aggregates to downstream competitors in the supply of asphalt at the local level as a result of the Merger.

## **Vertical effects arising through input foreclosure of cement into RMX**

21. The CMA considered whether the Parties' presence in both the production and supply of cement (upstream) and the production and supply of RMX (downstream) may give rise to input foreclosure of downstream rival RMX producers. On the basis of the evidence it found during its investigation, the CMA believes that the Parties would not have the ability to engage in input foreclosure, given that the Parties' combined production share of cement in GB indicates that the merged firm will not have sufficient market power to be able to foreclose downstream RMX producers. As such, the CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of cement to downstream RMX competitors as a result of the Merger.

## **Conclusion**

22. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until Tuesday 19 April 2016 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.

## ASSESSMENT

### Background

23. The proposed transaction (the **Merger**) relates to the purchase by Breedon Aggregates Limited (**Breedon**) of the whole of the issued share capital of Hope Construction Materials Limited (**Hope**).

### Parties

24. Breedon is a public company listed on the Alternative Investment Market of the London Stock Exchange. Breedon produces and supplies aggregates (primary and recycled), asphalt, RMX and concrete blocks in Great Britain (**GB**). Breedon also operates regional surfacing operations and a traffic management company. Breedon's turnover in the year ending 31 December 2014 was £269.6 million, all of which was achieved in the United Kingdom (**UK**).
25. Hope is a private limited company based in the UK. The ultimate controllers of Hope are Mittal Investments Sàrl (**Mittal**) and M1 Cement Holding Limited (**M1 Group**). Hope produces and supplies cement, RMX, and aggregates in GB. The turnover of Hope in the financial year ending 31 December 2014 was around £273.5 million, all of which was achieved in the UK.
26. **Mittal and M1 Group:** The ultimate controllers of Hope are Mittal and the M1 Group, both private companies. Hope submitted that neither Mittal nor the M1 Group, nor any of their subsidiaries, are engaged in any businesses which are active in the UK construction materials business.
27. **Abicad Holding Limited (Abicad)** is a wholly owned subsidiary of Brimary Investments Sàrl (ultimately controlled by Mittal and the M1 Group). Following the Transaction Abicad will hold no more than 18.4% of the shares of the enlarged Breedon and have the ability to appoint a non-executive director to the board of the enlarged Breedon.

### Transaction

28. On 17 November 2015, Breedon and Hope signed a sale and purchase agreement for the acquisition by Breedon of 100% of the share capital of Hope. The consideration is £336 million. This is made up of £202 million in cash and £134 million in shares.

29. As a result of the Merger, the current owners of Hope, through Abicad, will acquire 18.4% of the shareholdings of the expanded Breedon business [✂]. Abicad will also have the right to appoint one member of the Breedon Board.

### ***Acquisitions outside of the scope of the Merger assessment***

30. On 14 October 2014, Breedon acquired two asphalt plants from Hope (sites based at Cavenham and Wivenhoe). Breedon submitted that the CMA should consider these acquisitions as separate to the Merger as: (i) the Merger was not in contemplation at the time of these acquisitions, and (ii) the Merger does not include an acquisition of any asphalt plants (paras 4.3 – 4.5 of the Merger Notice and Annex 14).
31. Following examination of Breedon internal documents, the CMA believes that the Merger was not in contemplation at the time of this transaction and does not therefore consider it and the Merger to be successive events between the same parties, or in consequence of the same arrangements or transaction as occurring simultaneously on the date of the latest event. The CMA has not included the purchase of Cavenham and Wivenhoe asphalt plants as part of this Merger assessment.

### **Jurisdiction**

32. As a result of the Merger, the enterprises of Breedon and Hope will cease to be distinct.
33. The UK turnover of Hope exceeds £70 million. The turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is therefore satisfied.
34. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation in relation to Breedon's acquisition of Hope, which, if carried into effect, will result in the creation of a relevant merger situation.

### ***Abicad shareholding and influence as a result of the Merger***

35. As a result of the funding arrangements underpinning the Merger, the current owners of Hope, through Abicad, will acquire 18.4% of the shareholdings of the expanded Breedon business (see paragraph 28). Abicad will also have the right to appoint one member of the Breedon Board. The CMA considered whether the transaction would result in Breedon being brought under the ownership or control of Abicad and therefore in the creation of a relevant merger situation. The CMA considered whether Abicad would gain material influence over the policy of Breedon.

36. The ability to exercise material influence is the lowest level of control that may give rise to a relevant merger situation.<sup>3</sup> When making its assessment, the CMA focuses on the acquirer's ability materially to influence policy relevant to the behaviour of the target firm in the marketplace. A finding of material influence may be based on the acquirer's ability to influence the target's policy through exercising votes at shareholders' meetings, together with, in some cases, any additional supporting factors (see paragraph 38 below). However, material influence may also arise as a result of the ability to influence the board of the target, and/or through other arrangements: that is, without the acquirer necessarily being able to block votes at shareholders' meetings.<sup>4</sup>
37. Although there is no presumption of material influence below 25%,<sup>5</sup> the CMA may examine any shareholding of 15% or more in order to assess whether the holder might be able materially to influence the company's policy. Exceptionally, a shareholding of less than 15% might attract scrutiny where other factors indicating the ability to exercise material influence over policy are present.<sup>6</sup>
38. Abicad's holding of 18.4% will give it voting rights which fall below the level (25%)<sup>7</sup> that the CMA considers is likely to be seen as conferring the ability materially to influence policy.<sup>8</sup> However, the CMA considered whether Abicad would have the ability to block a special resolution as a practical matter or otherwise have the ability materially to influence a policy that would be expected to require a special resolution.<sup>9</sup> In particular, the CMA considered:
- (a) The distribution and holders of the remaining shares;
  - (b) Patterns of attendance and voting at recent shareholders' meetings based on recent shareholder returns, and, in particular, whether voter attendance is such that a shareholder holding 25% of the voting rights or less would be able in practice to block special resolutions;
  - (c) The existence of any special voting or veto rights attached to the shareholding under consideration;

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<sup>3</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.14.

<sup>4</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.16.

<sup>5</sup> Given the nature of the decisions that typically will require a special resolution – and which the holder could therefore block – a share of voting rights of over 25% is likely to be seen as conferring the ability materially to influence policy – even when all the remaining shares are held by only one person ([Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.19).

<sup>6</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.20.

<sup>7</sup> Including considering the effective turnout and voting at shareholder meetings.

<sup>8</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.19.

<sup>9</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraphs 4.18 – 4.27.



- (d) Any other special provisions in the company's constitution conferring an ability materially to influence its policy; and
  - (e) The status and expertise of Abicad, and its corresponding influence with other shareholders.
39. The CMA also considered whether Abicad would be able materially to influence the policy of Breedon through its Board representation.

*Influence of Abicad over Breedon as a result of Abicad's shareholding*

40. Abicad will not be the largest shareholder – the largest shareholder will hold 22.1% of the shares and the third largest will hold 10.8% of the shares (a number of smaller investors will have shareholdings of less than 10%). The main shareholders are large investment companies. The shareholding information submitted by Breedon demonstrated that, over a period of nine months, the main shareholders purchased shares in a way that maintained their relative holdings in Breedon.
41. Abicad's holding of 18.4% will be below the level that would enable it to block special resolutions. Shareholder attendance and voting at recent AGMs has approached 100% on most items and voting levels did not fall below 97.2% on any issue. Based on these voting patterns, Abicad's share of any vote would remain below 20% on any issue. Therefore, it would not have the ability, as a practical matter based on effective voting patterns, of being able to block special resolutions.
42. Abicad will not be granted any special voting rights. The Share Purchase Agreement does not grant Abicad any rights to block special resolutions, nor are there any special provisions in Breedon's constitution granting Abicad special status.
43. The CMA examined the Relationship Deed between Abicad and Breedon. This details how the relationship between Breedon and Abicad will operate, however, it does not contain any factors that could allow Abicad to materially influence Breedon.<sup>10</sup>
44. The information submitted by the Parties demonstrated that Breedon has a number of board members with sector expertise and that the main shareholders in Breedon are investment companies with a long association with Breedon. The CMA does not believe that Abicad will have such influence over these shareholders as to be able to direct their exercise of their

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<sup>10</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.26

shareholdings in such a way that Abicad would be able, indirectly, to exercise material influence over the policy of Breedon.

#### *Influence of Abicad over Breedon through board representation*

45. The CMA examined whether Abicad may gain material influence over Breedon through Board representation in such a way that Abicad would be able, directly or indirectly, to exercise material influence over the policy of Breedon.<sup>11</sup> The information submitted by the Parties demonstrated that:
- (a) Abicad will be able to appoint one member out of a total of eight directors on the Breedon Board. This Board member will not be granted any special rights or privileges.
46. Breedon has a number of Board members with sector expertise, such that, if Abicad were to put in place a Board member with particular expertise, the CMA does not believe that the Abicad Board member would be able to exercise material influence over the other Board members, on the basis of his or her knowledge or experience alone.
47. For the above reasons, the CMA believes that Abicad, through its acquisition of 18.4% shareholding in Breedon and representation on the Breedon Board, will not gain material influence over Breedon in such a way that Abicad would be able to exercise material influence over the policy of Breedon. The CMA believes that this aspect of the transaction will not result in the creation of a separate relevant merger situation.

#### ***Timing***

48. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 15 February 2016 and the statutory 40 working day deadline for a decision is therefore 12 April 2016.

#### **Counterfactual**

49. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the

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<sup>11</sup> [Mergers: Guidance on the CMA's jurisdiction and procedure](#), paragraph 4.23

merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.<sup>12</sup>

50. In this case, the CMA has not found any evidence supporting a different counterfactual, and the Parties and third parties have not put forward arguments in this respect. Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

## Background

51. This industry has been considered by competition authorities on a number of occasions. The Office of Fair Trading (**OFT**) referred the acquisition by Breedon of certain Scottish assets of Aggregate Industries UK Limited (**Breedon/Aggregate Industries**) to the Competition Commission (**CC**) in 2013. The CMA<sup>13</sup> published its report (which considered the markets for aggregates, RMX, and asphalt) on the merger on 9 April 2014.<sup>14</sup> In 2014 the CC completed an investigation into the markets for aggregates, RMX, and cement following a reference from the OFT on 18 January 2012.<sup>15</sup> It published its report on 14 January 2014 (**the market investigation into aggregates, cement and RMX**).<sup>16</sup> The OFT also referred the anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A (*Anglo / Lafarge*) to the CC in September 2011. The CC published its report (which considered the markets for cement, aggregates asphalt and RMX) on the joint venture on 1 May 2012.<sup>17</sup>
52. In this case, the CMA has taken into account the approach of the CMA and decisions in the same and related sectors by the OFT, CC and the European Commission as well as the market investigation into aggregates, cement and RMX.

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<sup>12</sup> [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

<sup>13</sup> The CMA was established on 1 October 2013. By virtue of the Enterprise and Regulatory Reform Act 2013 and the Enterprise and Regulatory Reform Act 2013 (Commencement No 6, Transitional Provisions and Savings) Order, No 416 of 2014, the CC's merger control functions were transferred to the CMA on 1 April 2014.

<sup>14</sup> CMA Report on [the completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), 9 April 2014

<sup>15</sup> OFT Market investigation reference: [Aggregates: The OFT's reason for making a market investigation reference to the Competition Commission](#) - , January 2012.

<sup>16</sup> CC market investigation reference report: [Aggregates, cement and ready-mix concrete market investigation - Final report](#)

<sup>17</sup> CC Report on a report on [the anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), May 2012.

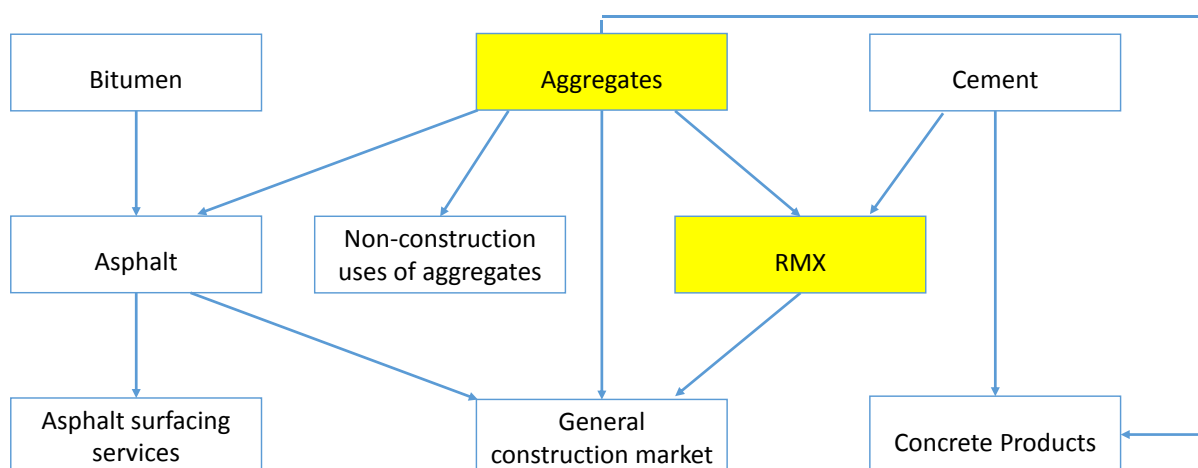
## Frame of reference

53. The CMA considers that market definition is a useful tool, but not an end in itself. Market definition provides a framework for assessing the competitive effects of the merger and involves an element of judgment. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of a merger in a mechanistic way, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.<sup>18</sup>

### *The products and overlaps*

54. Primary aggregates (along with cement or other cementitious products) form the basic ingredients of RMX. Similarly, primary aggregates and bitumen form the basic ingredients of asphalt. Most aggregates are used for construction purposes. Around 50% of all the aggregates produced in the UK are used as a sub base (the layer of stone which forms the foundation for many construction/road building projects) and for other structural fills in construction.<sup>19</sup>
55. A simplified overview of the relationship between aggregates, RMX, their inputs and other key heavy building materials is presented in Figure 1. The products and services where the Parties overlap have been highlighted in yellow.

**Figure 1: Simplified overview of the relationships between major heavy building materials**



Source: CMA

<sup>18</sup> *Merger Assessment Guidelines, A joint publication of the Competition Commission and the Office of Fair Trading*, paragraph 5.2.2.

<sup>19</sup> *The completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited*, paragraph 2.27

56. Breedon and Hope overlap in the production and supply of:
- (a) RMX in GB; and
  - (b) Primary aggregates in England and Wales.
57. In addition, Hope is a producer of cement and Breedon is a producer of asphalt. The Merger therefore also creates new vertical linkages as:
- (a) Cement is a key input in the production of RMX; and
  - (b) Primary aggregates are a key input in the production of RMX and asphalt.
58. The vertical relationship between these different products is shown in Figure 1 above.

### **Aggregates**

59. Aggregates are the granular base materials used in the construction of roads, buildings, and other infrastructure. Aggregates are also used in the production of RMX, concrete products and asphalt. Aggregates may be divided into primary aggregates (quarried from land or dredged from the sea), secondary aggregates (derived from waste products of other mining or industrial activities), and recycled aggregates (derived from recycled sources such as demolition sites and construction waste).

### *Product frame of reference*

60. The Parties overlap in the production and supply of primary aggregates, and as such the CMA first considered whether different types of primary aggregates are part of the same product frame of reference.

### *Primary aggregates of different types (sand, gravel and crushed rock).*

61. Previous competition investigations have considered this issue:
- (a) In *Breedon / Aggregate Industries* the CMA concluded that all types of primary aggregates supplied to all construction end-users should be included in the same product market.<sup>20</sup>
  - (b) In the market investigation into aggregates, cement and RMX, the CC found significant scope for substitution between different types of primary

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<sup>20</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 4.13

aggregates for applications accounting for a substantial part of total primary aggregates sales, but with more limited scope for substitution for other applications.<sup>21</sup> The CC concluded there is a single relevant product market which includes all types of primary aggregates: crushed rock and sand and gravel aggregates.<sup>22</sup>

(c) In *Anglo / Lafarge*<sup>23</sup> the CC concluded that, for construction aggregates, the relevant product market is the supply of primary aggregates. However, the CC recognised that differing constraints might be imposed in relation to different products within this market. Given the CC found a certain degree of differentiation between crushed rock and sand and gravel, it considered the possible different competitive constraint arising for crushed rock and sand and gravel as part of its competitive assessment.<sup>24</sup>

62. Breedon submitted that it considered that all types of primary aggregates supplied to all construction end-users should be included in the same product market.<sup>25</sup>
63. The CMA therefore considers that the appropriate frame of reference should include all types of primary aggregates.

#### *Different grades of primary aggregates*

64. Previous competition investigations have considered whether different grades of primary aggregates (namely fine, coarse graded/granular aggregates)<sup>26</sup> are in the same product frame of reference:

(a) In *Breedon / Aggregate Industries* the CMA concluded that all types of primary aggregates, including different grades of primary aggregates, supplied to all construction end-users should be included in the same product market.<sup>27</sup> In the market investigation into aggregates, cement and

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<sup>21</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.23.

<sup>22</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.105.

<sup>23</sup> CC Report on a report on [the anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), May 2012.

<sup>24</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.38.

<sup>25</sup> Breedon Merger Notice, paragraph 12.12.

<sup>26</sup> For example, the [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 2.9 explained that aggregates are classified by the grade (ie size) of the material (a) Fine aggregates are generally materials with a particle size of less than 5mm diameter. (b) Coarse aggregates are materials that are produced to a specific grading above 5mm diameter. (c) Granular aggregates do not have a uniform size and are used to provide stability in foundation layers and bulk fill applications. They are composed of a combination of coarse and fine materials.

<sup>27</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 4.13

RMX, the CC did not define separate product markets for different grades of aggregates.<sup>28</sup>

- (b) In *Anglo/Lafarge* the CC found that different grades of the same type of primary aggregates (e.g. fine, coarse aggregates) were unlikely to be easily substitutable from the demand side.<sup>29</sup> However, as quarries usually produce various grades of primary aggregate products and there was some scope to switch production between these grades, the CC concluded that different grades of the same type of primary aggregates should be considered as part of the same relevant product market.<sup>30</sup>

65. The CMA therefore considers that all grades of primary aggregates are included in the same product frame of reference.

#### *Secondary and recycled aggregates*

66. Previous competition investigations have considered whether secondary and recycled aggregates should be included in the same product frame of reference as primary aggregates:

- (a) In *Breedon / Aggregate Industries* the CMA decided that, because recycled aggregates could be substituted for primary aggregates for a substantial proportion of applications, they should be included in the same market as primary aggregates.<sup>31</sup> However, in its local competitive assessment the CMA considered whether there was scope for customers to switch in practice in different areas.
- (b) In the market investigation into aggregates, cement and RMX, the CC concluded that it was appropriate to define a relevant product market for all construction aggregates, including recycled and secondary aggregates.<sup>32</sup> However, it also found that secondary and recycled aggregates were an imperfect substitute to primary aggregates and that the extent of substitutability of recycled and secondary aggregates for primary aggregates varied significantly by application and availability. The CC took into account the imperfect nature of substitution in the competitive assessment.

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<sup>28</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.105

<sup>29</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.35.

<sup>30</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.36.

<sup>31</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 4.14.

<sup>32</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.24.



(c) In *Anglo / Lafarge* the CC considered that, while recycled and secondary aggregates did to some extent constrain primary aggregates for some uses, these constraints were not sufficient for the CC to conclude that primary, secondary and recycled aggregates were all in the same relevant product market. The CC concluded that the relevant product market for primary aggregates did not include secondary and recycled aggregates. However, the CC did consider any competitive constraint posed by secondary and recycled aggregates on primary aggregates in their local competitive effects analysis.<sup>33</sup>

67. Breedon submitted that secondary and recycled aggregates should be considered to fall within the same product market as primary aggregates on the grounds that secondary and recycled aggregates are interchangeable with primary aggregates and there is significant demand-side substitutability between primary and secondary / recycled aggregates.<sup>34</sup>
68. Consistent with *Breedon / Aggregate Industries* and the *market investigation into aggregates, cement and RMX*, the CMA considers that all primary, secondary and recycled aggregates are part of the same product frame of reference. However, the CMA recognises that secondary and recycled aggregates are an imperfect substitute to primary aggregates and that the extent of substitutability of recycled and secondary aggregates for primary aggregates varies significantly by application and availability.
69. In addition, the Parties were only able to provide data on the number, location and shares of production of primary aggregates sites and provided limited information on the presence of, and competitive constraint presented by, secondary and recycled aggregates in particular areas.
70. For these reasons, the CMA considered that, as the Parties overlap in the production and supply of primary aggregates, the CMA should focus its competitive assessment on the degree of competition that exists between producers of primary aggregates. Where the CMA was presented with views that other types of aggregates exercise a competitive constraint in a particular area, the local competitive assessment considered whether there was evidence supporting the existence of such a constraint.

### *Conclusion*

71. The CMA believes that the appropriate product frame of reference includes:

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<sup>33</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.27.

<sup>34</sup> Breedon Merger Notice, paragraph 13.10.



- (a) All types of primary aggregates (i.e. sand, gravel and crushed rock);
  - (b) All grades of primary aggregates (i.e. fine, coarse, graded/mixed aggregates); and
  - (c) All sources of aggregates, including primary, secondary and recycled aggregates.
72. For the reasons set out in paragraphs 68 to 71, the CMA has focussed its competitive assessment on the degree of competition that exists between producers of primary aggregates.

### *Geographic frame of reference*

73. Previous inquiries have consistently found that the geographic frame of reference for [primary] aggregates is local since the cost of transportation relative to the total price is relatively high. As a starting point for the delineation of local markets, previous inquiries have used catchment areas calculated on the basis of the average distance over which 80% of the external sales of a quarry or depot were delivered:
- (a) In *Breedon/Aggregate Industries* the CC used the weighted<sup>35</sup> average catchment area for both parties of 18 miles;<sup>36</sup>
  - (b) In *Northstone / Catherwood*<sup>37</sup> the OFT applied a 30 mile catchment area as suggested by the Parties and largely supported by third parties.<sup>38</sup>
74. Breedon submitted that the geographic frame of reference for aggregates is local and calculated that the weighted average distance over which it delivered 80% of its primary aggregates external sales (by volume) across GB was [X] miles (the **Average Catchment Area for aggregates**).<sup>39</sup>
75. The CMA therefore believes that the appropriate geographic frame of reference is local and uses the following catchment areas as a starting point for its local competitive assessment:
- (a) [X] miles (consistent with the lower bound of distances in prior OFT, CC, CMA and European Commission decisions relating to this industry); and

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<sup>35</sup> Weighted by the volume of aggregates delivered by each site.

<sup>36</sup> *Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited*, paragraph 4.54.

<sup>37</sup> OFT decision on the *Anticipated acquisition by Northstone (NI) Limited of RMC Catherwood Limited*, 3 April 2013.

<sup>38</sup> *Anticipated acquisition by Northstone (NI) Limited of RMC Catherwood Limited*, paragraph 23

<sup>39</sup> Breedon Merger Notice, paragraph 13.18.

(b) [X] miles (the Average Catchment Area for aggregates calculated by Breedon and consistent with the higher bound of distances in prior OFT, CC, CMA and European Commission decisions relating to this industry).

76. However, in its competitive assessment, the CMA has not applied these catchment areas in a mechanistic way but has considered the constraint posed by competitors both inside and outside these areas, while also recognising that the strength of competition is likely to be different in different parts of each catchment area.
77. Whilst the CMA notes that it is not necessary to reach a conclusion on the product or geographic frame of reference for aggregates, in this case, since no competition concerns arise, the CMA has not materially diverted from the product and geographic frames of reference used in the prior OFT, CC, CMA and European Commission decisions relating to this industry.

## **RMX**

78. RMX is concrete which is produced in a freshly-mixed and unhardened state. RMX is manufactured by mixing specific quantities of cement, and (if desired) other cementitious products, with fine and coarse aggregates, water and other additives. The specific composition and resulting properties of RMX can be customised to suit different applications.<sup>40</sup>

### *Product frame of reference*

79. Breedon submitted that the relevant product market should be the production and supply of RMX.<sup>41</sup>
80. Breedon also submitted that RMX is typically batched at static plants and then transported to the customer's site using special delivery vehicles which rotate the RMX in drums during delivery to prevent it from setting. Breedon said that RMX can also be produced in mobile plants<sup>42</sup> (at or near the customer site) or in volumetric trucks which carry the ingredients separately and mix them on-site.<sup>43</sup>
81. Breedon further submitted that RMX is widely used across the construction industry, for example in structures such as buildings, bridges and roads, and

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<sup>40</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 2.36

<sup>41</sup> Breedon Merger Notice paragraphs 1.4.

<sup>42</sup> Mobile RMX plants (also known as a site plants) are RMX plants in modular form that are readily transportable by road. They may be located on a construction site itself or nearby. [See *Breedon Aggregates and Aggregate industries UK*, a report by the CMA, Glossary].

<sup>43</sup> Breedon Merger Notice, paragraph 12.14.

in foundations, domestic oversites, floors, bases, driveways, footpaths, shed bases and many other construction applications.<sup>44</sup>

82. Breedon submitted that the relevant product market should include all grades of RMX, whether produced in static plants, mobile plants or volumetric trucks.<sup>45</sup>

#### *Different grades of RMX*

83. The CMA has previously found that all grades of RMX should be included in the same product market.<sup>46</sup> This is consistent with findings in previous cases of the European Commission,<sup>47</sup> and the predecessors of the CMA, the CC<sup>48</sup> and the OFT.<sup>49</sup>

#### *RMX produced by fixed plants, mobile plants and volumetric trucks*

84. Breedon submitted that volumetric trucks can travel a reasonably significant distance from their base location and can pick up aggregates supplied in the local area surrounding job sites. Breedon submitted that, as a result, suppliers using volumetric trucks can economically supply across broad geographic areas.<sup>50</sup> Breedon also submitted that, in 2014, the volumetric trucks / on-site batching segment accounted for around 10% of the total concrete market, having grown by 7.7% from 2013.<sup>51</sup> Breedon further submitted that RMX sold from both mobile plants and volumetric trucks competed with RMX sold from fixed plants and that, therefore, the narrowest and most appropriate candidate product market would be the production and supply of RMX, including RMX supplied from fixed plants, mobile plants and volumetric trucks.<sup>52</sup>
85. Previous competition investigations have considered this issue:
- (a) In *Breedon / Aggregate Industries* the CMA concluded that all types of RMX should be included in the same product market, including RMX supplied by fixed plants, mobile plants (referred to as site plants in the report) and volumetric trucks. However, the CMA received evidence that:

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<sup>44</sup> Breedon Merger Notice, paragraph 12.5.

<sup>45</sup> Breedon Merger Notice, paragraph 12.6.

<sup>46</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 4.27.

<sup>47</sup> For example, European Commission case, [Case COMP/M.7252 – Holcim/Lafarge](#), paragraph 281.

<sup>48</sup> For example, [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#) paragraph 5.48.

<sup>49</sup> For example [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 37.

<sup>50</sup> Breedon Merger Notice, paragraph 13.27.

<sup>51</sup> Breedon Merger Notice paragraph 13, 28. Source: BDS report: "*Estimated market shares of ready mixed concrete companies in Great Britain (2014)*".

<sup>52</sup> Breedon Merger Notice, paragraph 13.26

RMX supplied by volumetric trucks tend to be a substitute for fixed plants for smaller projects; that they may be serving different types of projects or customers, such as more remote projects; and that there can be quality issues with RMX supplied by volumetric trucks.<sup>53</sup> For these reasons, the CMA took account of the possibly differing competitive constraints that the different types of RMX production units impose on each other as part of its competitive assessment.<sup>54</sup>

- (b) In its market investigation into aggregates, cement and RMX,<sup>55</sup> the CC found that volumetric trucks were a substitute for RMX from fixed plants for relatively small projects. However, the CC also found some evidence that volumetric trucks were being used on some larger projects. The CC also concluded that mobile plants (referred to as site plants in the report) only appeared to be suitable for the largest projects. Overall, the CC included RMX supplied by both mobile plants and volumetric trucks in its market definition and considered in the competitive assessment the strength of rivalry between volumetric trucks and site plants on one hand and fixed plants on the other.<sup>56</sup>
- (c) In *Anglo / Lafarge*<sup>57</sup> the CC concluded that it was appropriate to define a single product market for the supply of RMX produced by either fixed or by mobile plants (referred to as site plants in the report).<sup>58</sup> The CC excluded from the market definition RMX produced by volumetric trucks on the basis that: (i) these trucks appeared to serve a different segment of the market (ie small-volume projects), and (ii) the product was perceived to be of lower quality and strength. For this reason, the CC concluded that volumetric trucks were likely to pose only a limited constraint on RMX produced by fixed and mobile plants. The CC considered the constraint from volumetric trucks in its local competitive effects analysis, although there were no areas where the relevant parties' share of supply changed sufficiently once volumetric trucks were included to affect the conclusion.<sup>59</sup>
- (d) In *Holcim / Lafarge* the European Commission found that RMX can be produced at fixed or mobile plants and then transported. Alternatively, the

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<sup>53</sup> *Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited*, paragraph 4.26.

<sup>54</sup> *Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited*, 24 September 2013, paragraph 4.27.

<sup>55</sup> *Aggregates, cement and ready-mix concrete market investigation - Final report*, 14 January 2014.

<sup>56</sup> *Aggregates, cement and ready-mix concrete market investigation - Final report*, paragraph 5.101 - 5.102.

<sup>57</sup> *Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.*, May 2012.

<sup>58</sup> *Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.*, paragraph 5.48.

<sup>59</sup> *Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.*, paragraph 5.50.

different components can be transported separately in volumetric trucks, then mixed on site.<sup>60</sup> The European Commission considered that, in line with its previous decisions, RMX constitutes a single distinct product market.<sup>61</sup>

86. In line with the *Breedon / Aggregate Industries, Holcim / Lafarge* and the *market investigation into aggregates, cement and RMX*, the CMA considers that all types of RMX, are part of the same product market whether produced by fixed plant, mobile plant or by volumetric truck. However, the CMA recognises that mobile plants and volumetric trucks may provide a limited constraint on RMX produced by fixed plants (eg for certain project sizes).
87. In addition, the Parties were only able to provide data on the number and location of fixed RMX sites and provided limited information on the presence of, and competitive constraint presented by, volumetric trucks and mobile plants in particular areas.
88. For these reasons, the CMA considered that, as the Parties overlap in the production and supply of RMX produced by fixed plants, the CMA should focus its analysis on the degree of competition that exists between producers of RMX from fixed sites. Where the CMA was presented with views that mobile plants and volumetric trucks exercise a competitive constraint in a particular area, the local competitive assessment considered whether there was evidence supporting the existence of such a constraint at the local level.

### *Conclusion*

89. The CMA believes that the appropriate product frame of reference includes:
  - (a) All types of RMX, and
  - (b) All RMX produced by fixed plant, mobile plant or by volumetric truck.
90. For the reasons set out in paragraphs 88 and 89, the CMA has focussed its competitive assessment on the degree of competition that exists between producers of RMX from fixed sites and has considered the constraints provided by mobile plants and volumetric tracks where there was evidence supporting the existence of such a constraint in specific local areas.

### *Geographic frame of reference*

91. Breedon submitted that the geographic frame of reference for RMX is local. It calculated that the weighted average distance over which it delivered 80% of

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<sup>60</sup> Case COMP/M.7252 – *Holcim/Lafarge*, paragraph 277.

<sup>61</sup> Case COMP/M.7252 – *Holcim/Lafarge*, paragraph 281.

its external RMX sales (by volume) across GB was [X] miles (the **Average Catchment Area** for RMX).<sup>62</sup> Previous competition investigations have consistently found that the geographic frame of reference for RMX is local. This is due to the high cost of transportation relative to the price of RMX and the perishability of the product which limits the distance over which it can be transported.<sup>63</sup> In order to identify the appropriate geographic boundaries of local markets, previous investigations have calculated the average distance over which 80% of external sales were delivered:

- (a) In *Breedon / Aggregate Industries* the OFT considered the merger on the basis of a 10 mile radius as a starting point. It also considered the merger on the basis of a 15 mile radius as a sensitivity check.<sup>64</sup> On referral, the CC decided that the catchment area for RMX was 13 miles.
- (b) The market investigation into aggregates, cement and RMX found that RMX markets were localised in nature, with catchment areas in the region of eight to 10 miles, albeit with some scope for variation according to local factors and the means available for distributing the product (ie via volumetric trucks or conventional mixer trucks).<sup>65</sup>
- (c) In *Holcim / Lafarge* the European Commission considered that the relevant geographic market is a radius of 25 km [15.5 miles] around each RMX plant.<sup>66</sup>

92. In line with the above prior OFT, CC, CMA and European Commission decisions, the CMA believes that the appropriate geographic frame of reference is local and has used the following catchment areas as a starting point for its local competitive assessment:

- (a) [X] miles (consistent with the lower bound of distances in prior OFT, CC, CMA and European Commission decisions relating to this industry); and
- (b) [X] miles (the Average Catchment Area for RMX calculated by Breedon and consistent with the higher bound of distances in prior OFT, CC, CMA and European Commission decisions relating to this industry).

93. However, in its competitive assessment, the CMA has not applied these catchment areas in a mechanistic way but has considered the constraint

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<sup>62</sup> Breedon calculated its 80% delivery distance based on sales data from the 12 month period to 30 June 2015. It calculated straight line distances of all its delivered external sales from its fixed RMX plants in England and Scotland. Merger Notice, paragraph 13.34.

<sup>63</sup> RMX is best used a short time after production (preferably within two hours).

<sup>64</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 60.

<sup>65</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.104.

<sup>66</sup> [Case COMP/M.7252 – Holcim/Lafarge](#), paragraph 286.

posed by competitors both inside and outside these areas, while also recognising that the strength of competition is likely to be different in different parts of each catchment area.

## **Asphalt**

94. Asphalt is a product manufactured by heating and mixing aggregates with a binding agent (normally bitumen). It is principally used for road surfacing, car parks, footpath pavements, airport runways and other surfaces. Previous inquiries have consistently found that there was a single product market for all specifications of asphalt, including asphalt supplied from fixed plants and mobile plants.<sup>67</sup>

### *Product frame of reference*

95. Breedon submitted that there is a single product market for the production of asphalt, referring to prior decisions relating to this industry which support its view.<sup>68</sup>
96. The CMA believes that the product frame of reference includes all specifications of asphalt, including asphalt supplied by fixed and mobile plants.

### *Geographic frame of reference*

97. Prior OFT, CC, CMA and European Commission decisions relating to this industry have consistently found that geographic markets are local, as asphalt is a perishable product that must be delivered hot. As a starting point for the delineation of local markets, previous inquiries have used catchment areas calculated on the basis of the average distance over which 80% of the external sales of an asphalt plant were delivered:
- (a) In *Anglo/Lafarge* investigation, the CC found catchment areas between 16 miles and 26 miles, for each merging Party respectively;<sup>69</sup>
  - (b) The *Breedon/Aggregate Industries* inquiry found that the relevant catchment area was 17 miles to 25 miles. The CC also considered a 35

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<sup>67</sup> For example [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.45 and [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 4.39.

<sup>68</sup> Breedon Merger Notice, paragraph 12.30.

<sup>69</sup> The CC calculated the average catchment area for each of the merging Parties, separately, and for sites located in Greater London, urban areas and non-urban areas, separately. It found that Lafarge's catchment areas ranged from 17 miles to 19 miles for each area, respectively. Whereas Tarmac's catchment areas ranged from 15 miles to 31 miles for each area, respectively. See [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 6.97.



mile catchment in order to capture sales through Breedon's contract surfacing business which it considered could operate over a wider area.<sup>70</sup>

98. Breedon submitted that geographic markets are local but it considers that, in this case, given that the overlaps between the Parties in respect of asphalt are limited and of a vertical nature only and do not raise any competition concerns, it is not necessary to define the exact boundaries of the geographic market.<sup>71</sup>
99. The CMA therefore believes that the appropriate geographic frame of reference for asphalt is local.
100. Whilst the CMA notes that it is not necessary to reach a conclusion on the product or geographic frame of reference for asphalt, in this case, since no competition concerns arise in relation to the supply of asphalt, the CMA has not materially diverted from the product and geographic frames of reference used in prior OFT, CC, CMA and European Commission decisions relating to this industry.

## **Cement**

101. Cement is the 'glue' that binds together the components of building materials. Among other uses, cement is mixed with aggregates and water to produce RMX. Cement is made from a mixture of finely ground limestone or chalk (or other materials with a high calcium content), clay and sand (or other sources of silica and alumina). This mixture is heated almost to melting point (around 1,450 °C) in a large rotating kiln, creating an intermediate product, cement clinker, which has specific chemical proportions of lime, alumina, silica and iron. The finished cement is produced by grinding together around 95 per cent cement clinker with 5 per cent additives including gypsum.<sup>72</sup>

## **Product frame of reference**

102. Prior OFT, CC, CMA and European Commission decisions relating to this industry have consistently defined the relevant product markets in relation to the supply of bulk cement (including all types of cement and both domestically-produced and imported cement) and, separately, the supply of

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<sup>70</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited, 24 September 2013](#), paragraph 4.63.

<sup>71</sup> Breedon Merger Notice, paragraph 13.58.

<sup>72</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 2.44.



bagged cement (including all types of cement and both domestically-produced and imported cement).<sup>73</sup>

103. Breedon submitted that the narrowest and most appropriate candidate product markets in respect of cement would be the supply of bulk cement and the supply of bagged cement.<sup>74</sup>
104. The CMA therefore believes that the product frame of reference for cement includes:
- (a) The supply of bulk cement (including all types of cement and both domestically-produced and imported cement); and
  - (b) The supply of bagged cement (including all types of cement and both domestically-produced and imported cement).

#### *Geographic frame of reference*

105. Previous decisions have identified the following geographic markets for cement:
- (a) In *Anglo/Lafarge*, the CC did not conclude specifically on the geographic scope of cement markets, however, the competitive assessment focused on GB, while also assessing the constraints within GB from imported cement.<sup>75</sup>
  - (b) In the market investigation into aggregates, cement and RMX, the CC considered that the cement market should be considered at the GB level.<sup>76</sup>
106. Breedon submitted that the geographic market for the supply of cement should be considered at least national, but that there is strong evidence that suggest that imported cement should also be considered part of the relevant geographic market.<sup>77</sup>

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<sup>73</sup> For example [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 5.20 and the *Aggregates, cement and ready-mix concrete market investigation, Final report*, paragraphs 5.38 and 5.105(b).

<sup>74</sup> Merger Notice, paragraph 13.40.

<sup>75</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A.](#), paragraph 6.112.

<sup>76</sup> [Aggregates, cement and ready-mix concrete market investigation - Final report](#), paragraph 5.41.

<sup>77</sup> Breedon told us that imported cement has become increasingly important and that, according to the MPA, the volume of imported cement into GB has increase by 50% to 1.8 million tonne in the period between 2010 and 2014.

107. In line with prior OFT, CC, CMA and European Commission decisions relating to this industry, the CMA believes that the appropriate geographic frame of reference for cement is GB.
108. Whilst the CMA notes that it is not necessary to reach a conclusion on the product or geographic frame of reference for cement, in this case, since no competition concerns arise in relation to the supply of cement, the CMA has not materially diverted from the product and geographic frames of reference used in prior OFT, CC, CMA and European Commission decisions relating to this industry.

## **Competitive assessment**

109. As set out in the following sections, the CMA has assessed the following TOHs:
- (a) Horizontal unilateral effects arising from the loss of existing competition in the production and supply of RMX at the local level;
  - (b) Horizontal unilateral effects arising from the loss of existing competition in the production and supply of primary aggregates at the local level;
  - (c) Vertical effects arising through input foreclosure of primary aggregates into RMX at the local level;
  - (d) Vertical effects arising through input foreclosure of primary aggregates into asphalt at the local level, and
  - (e) Vertical effects arising through input foreclosure of cement into RMX at the local level.
110. The CMA analysed each TOH, as set out in turn below.

### ***Horizontal unilateral effects arising from the loss of existing competition in the production and supply of RMX at the local level***

111. The CMA assessed whether there is a realistic prospect that the Merger will give rise to an SLC in the supply of RMX at the local level, as a result of the merged firm increasing the price of its RMX (or otherwise worsening its competitive offer), due to the loss of existing competition between the merging Parties.

### *Framework of the local assessment*

112. The CMA followed a number of steps in carrying out the local competitive assessments, in particular:

- (a) Delineation of catchment areas;
- (b) Identification of overlaps;
- (c) Filtering to exclude from the analysis overlap sites/areas where competitive issues are unlikely to arise; and
- (d) Local competitive assessment of sites/areas which fail the filters.

### *Identifying which of the merging Parties RMX sites overlap*

113. The CMA identified overlaps whenever at least one Breedon RMX site was located within [~~3~~] miles of a Hope RMX site (and vice versa). The [~~3~~] miles was chosen as this captured two contiguous [~~3~~] mile catchment areas and represents 1½ times the size of the Average Catchment Area ([~~3~~] miles) for RMX identified by Breedon. The CMA considered that sites which are further than [~~3~~] miles away from each other are unlikely to compete for many customers.<sup>78</sup>

114. In conducting the overlap analysis the CMA considered the following types of plants:

- (a) Each of the Parties' operational fixed RMX plants; and
- (b) Each of the Parties' planned,<sup>79</sup> mothballed and closed fixed RMX plants.<sup>80</sup>

115. The Parties own a total of 222 operational, mothballed, closed and planned sites. The analysis identified 84 overlap RMX sites.<sup>81</sup>

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<sup>78</sup> Whilst it is possible that sites located between [~~3~~]miles and [~~3~~] miles from each other compete for some customers in the overlapping part of their [~~3~~] mile catchment areas, the CMA considered that this would represent a small part of their overlapping catchment areas and hence a small number of customers. The CMA considered that competition between RMX providers is likely to be strongest within the narrower [~~3~~] mile catchment area, with [~~3~~] miles being identified as the higher bound distance to determine the catchment area.

<sup>79</sup> This included six new RMX sites that opened during the course of the CMA's inquiry as well as a further 4 Hope sites and one Breedon site that the Parties were planning to open at the time of notification.

<sup>80</sup> Breedon told the CMA that, although a site that is described as closed is intended to be closed on a permanent basis and the plant at the site is removed, given the limited cost and set up time involving in putting a new plant, either type of site (i.e. closed and mothballed) could be reopened relatively easy if were commercially advantageous to do so. For this reason the CMA include also mothballed and closed RMX static plants into the overlap analysis (see response to Q13 received on 21<sup>st</sup> December 2015).

<sup>81</sup> These are overlaps where the site on which the catchment area is centred is either operational or planned. Although the CMA included mothballed and closed sites in the analysis, it has not considered local areas where these sites are located at the centre of the catchment area. The reason is that, although mothballed and closed sites can represent a competitive constraint on operational sites, even if currently not operational (given the

*Overlap sites/areas where there was no realistic prospect of competition concerns arising*

116. The CMA applied filters to identify those areas that required a more detailed competitive assessment. The filters were based on a share of sites measure and on a fascia count measure. In relation to the former, the CMA notes that the Parties provided data on the number and location of fixed RMX sites and submitted that, unlike primary aggregates, site level production data for RMX sites in an area was not available through third party providers.
117. The filters the CMA applied were:
- (a) The Parties' post-Merger share of fixed RMX sites would be more than 33%<sup>82</sup> based on either a [X] mile or [X] mile catchment; and
  - (b) The Parties' are located within [X] miles of each other and post-Merger the fascia count within that distance would be three or lower (including the Parties).<sup>83</sup>
118. Given that shares of sites are an imperfect proxy for shares of supply (measured by volume or revenue)<sup>84</sup> and in view of the low threshold for reference under the Act, the CMA took a cautious approach to its filtering exercise. The CMA considered closely areas which failed one or both of the filters.
119. On the basis of these filters, of the 84 overlap fixed RMX sites, the CMA identified 64 sites which required a more detailed local competitive assessment.

*Local competitive assessments*

120. The Parties submitted data on fixed RMX sites identifying the owners of each site and its location and provided maps of the catchment areas around the Parties' plants. The Parties did not submit any evidence on the shares of supply (whether by volume or by revenue) nor on the relative strength of the

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limited time and costs necessary to reopen these plants), a competitive assessment of the local area surrounding RMX sites that is currently not supplying the product is unnecessary as a non-operational site is incapable of having market power.

<sup>82</sup> In *Breedon/Aggregate Industries* phase one inquiry the OFT used a filter of 40% in relation to RMX. On a cautious basis the CMA here used a 33% share threshold, which, under certain assumptions, corresponds also to a reduction in the number of competitors from four to three.

<sup>83</sup> As these filters are additive, the CMA only filtered out sites at this stage if the Parties combined share of sites was less than 33% (for example, if the Parties had one out of four sites or two out of seven sites within both [X] and [X] miles) and, where the other merging Parties' site is within [X] miles, there are at least three other distinct fascia within [X] miles.

<sup>84</sup> Production from, and capacity of, individual sites varies from about 10,000 tonnes of RMX per year for a smaller plant to 50,000+ tonnes of RMX per year for larger sites

Parties' and competitors' sites.<sup>85</sup> The Parties provided heat maps of customer locations for a number of their sites at a very late stage of the investigation.<sup>86</sup> As a result, this limited the scope of the local competitive assessments that the CMA was able to carry out. The CMA has, therefore, taken this limitation into account and exercised caution when determining its approach to the competitive assessment in each area.

121. The CMA assessed the likelihood of the Merger resulting in horizontal unilateral effects in each of the areas around the 64 overlap fixed RMX sites that required a more detailed competitive assessment by reference to the following factors:

(a) Closeness of competition:

- (i) The number of Parties' sites and their geographic location within or just outside the local area;
- (ii) The distance between the Parties' sites;
- (iii) The Parties' combined shares of fixed RMX sites<sup>87</sup> within [X] miles and [X] miles of the focal site;
- (iv) Heat maps showing the Parties' customer locations, where available; and
- (v) Third parties' views on the closeness of competition between the Parties in the local area were sought on the 36 sites that the CMA judged to be most problematic.

(b) Competitive constraints:

- (i) The number and identity of competitors in the local area;
- (ii) The fascia reduction within [X] miles and [X] miles of the focal site;
- (iii) The location of competitors with respect to the Parties' sites within or just outside the local area; and
- (iv) Third parties' views on the constraint from competitors in the local area were sought on the 36 sites that the CMA judged to be most problematic.

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<sup>85</sup> Such as: production volumes, capacity, maximum output levels, number of employees and/or trucks.

<sup>86</sup> Where relevant, these are referred to in each local area in the Annex to this decision.

<sup>87</sup> As noted above the CMA have used share of fixed RMX sites as Breedon told us that there is no reliable estimate of production shares (or share of sales) for RMX in local areas.

122. When considering the location of the Parties' sites and those of competitors in each area, the CMA considered that the closer any RMX sites are to each other the more closely they would compete. Sites within [~~3~~] miles of each other would normally be considered to be close competitors. When considering how closely two sites competed, the CMA also took into account that two sites could compete closely if they were a similar distance from a likely centre of demand (e.g. a nearby town) and that good road networks, (such as a motorway connection) could increase the closeness of competition of sites relatively distant from each other.
123. When considering the constraint competitors' sites provided on the Parties' sites, the CMA also took into account whether or not a competitor was located in-between a Breedon and a Hope site, as this meant they were likely to provide a competitive constraint at least as strong as the constraint the Parties provided on each other pre-Merger.
124. The CMA took into account the number of competitor fascia that would be present in each area post-Merger and the number of sites owned by each competitor. The CMA considered that, subject to any evidence of capacity constraints, where a Major owned one or more RMX sites in the area located close to the Parties' sites this would represent a significant competitor. Where available, the CMA also took into account information provided by both the Parties and third parties about where demand was located and the extent to which different sites were able to compete in these areas.
125. Taking these factors into account, the CMA considered that there was a significant weakening of competition resulting from the Merger when it could not be confident that there would be at least three competing fascia capable of providing a significant constraint on the parties post-Merger.
126. In addition to the above factors, in assessing the strength of the constraint provided by competitors in specific local areas the CMA also took into account any evidence on:
- (a) The nature of any capacity constraints and the extent this may weaken the strength of competition from nearby RMX plants;
  - (b) The competitive strengths of independent providers of RMX; and
  - (c) The constraint exerted by volumetric trucks.
127. These three factors are discussed below.

### *Capacity of competitors*

128. In response to the CMA's questionnaire, one of the four large national players (**Major**) stated that [X]. Another Major also stated that [X]. As such the CMA considered whether this could significantly weaken the competitive constraint these competitors could provide, post-Merger, on the Parties in areas where their sites overlap.
129. In further discussions with the CMA, these competitors told the CMA that where capacity limits were being reached these were largely [X].
130. Both Major competitors told the CMA that they were [X]. Where they faced a capacity constraint based on [X]. One of the competitors however stated that [X]. Another competitor similarly explained it would look to its [X].
131. On the basis of this evidence, the CMA considered that competitors, such as the Majors, with multiple RMX locations have some scope to mitigate capacity constraints caused by [X]. Overall, in the absence of site specific evidence about the existence of capacity constraints, the CMA has concluded that such constraints are not significant. However, the CMA noted that the option of [X] would not be available to those smaller independents without at least a regional network of plants, for which capacity constraints may be more binding.

### *Competition from independent RMX producers*

132. The CMA considered whether smaller independent operators of RMX plants may not represent the same competitive constraint as either the four Majors or other sizable multi-site regional / national operators. The CMA considered whether smaller independent competitors may lack the resources, brand name and reputation as well as the marketing expertise of the larger players. As noted above, if these independents have only one site, they will also be unable to move trucks between sites in response to changes in demand. The CMA factored this into its assessment in two ways.
- (a) Firstly, as noted above, the CMA adopted a relatively cautious approach to filtering. Although filtering by fascia gives the same weight to independents and to larger multi-site operators, in calculating a 'share of sites' the calculation will also apportion a greater 'share' to those operators that have multiple sites in any area.
- (b) Secondly, in conducting a detailed competitive assessment of each local area that were identified by applying the filters, the CMA scrutinised the independents to ensure they represented a credible competitor, in particular, that customers considered them to be a viable alternative to the

Parties. The CMA placed less weight on the presence of an independent in the area if it is not clear that it could provide a similar level of constraint as a larger operator.

#### *Volumetric trucks*

133. As explained at paragraphs 78 - 89, in line with the most recent OFT, CC, CMA and European Commission decisions relating to this industry, the CMA adopted a frame of reference that included fixed plants, site plants and volumetric trucks. However, the CMA noted that previous cases have found that volumetric trucks may provide a limited constraint on fixed plants for certain customers.<sup>88</sup> The CMA also noted the Parties' submission that the share of RMX produced by volumetric trucks appears to be growing. However, the Parties were only able to provide data on the number and location of fixed RMX plants and the CMA was unable to verify the volume of RMX provided by volumetric trucks in any particular area. Where the CMA received representations that volumetric trucks exercise a constraint in a particular area, the CMA, in its local competitive assessment considered those representations and any corroborating evidence supporting the existence of such a constraint at the local level.

#### *Assessments*

134. The CMA carried out local competitive assessments on all 64 sites which it had identified as requiring a more detailed local competitive assessment (see paragraph 122). The CMA collected third party views on 39 sites after the CMA's initial review had identified these sites as potentially giving rise to SLC concerns.<sup>89</sup> The CMA used the criteria outlined in paragraph 121 to assess the closeness of competition between the Parties prior to the Merger and the level of competitive constraint that will be lost as a result of the Merger in each local area.
135. As a result of these investigations, the CMA concluded that there are 27 fixed RMX sites, out of 64 that failed the filter, where it believes there is a realistic prospect of an SLC arising as a result of the Merger in the supply of RMX in these local areas, due to the loss of existing competition between the merging Parties. The Annex to this decision sets out the CMA's local competitive assessment for each of these sites namely:

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<sup>88</sup> See paragraph 86.

<sup>89</sup> The CMA's initial review also identified 25 sites as not giving rise to a realistic prospect of an SLC. As a result, the CMA took a pragmatic decision not to seek third party comments in relation to these sites as the risk of finding an SLC was low. The CMA would have taken on board any views it received from third parties in relation to these sites, but did not receive any.



- 1) **Moray**
  - a. Cloddach (Hope)
  - b. Netherglen (Breedon)
  - c. Rothes Glen (Breedon)
- 2) **Monmouthshire / Gloucestershire border**
  - a. Clearwell (Breedon)
  - b. Coleford (Hope)
- 3) **North Lincolnshire / Humberside**
  - a. Grimsby (Breedon)
  - b. Immingham (Hope)
  - c. Scunthorpe (Hope)
  - d. Humber (Breedon)
- 4) **North Inverness-shire (near Inverness)**
  - a. Beaully (Breedon)
  - b. Longman (Breedon)
  - c. Inverness (Hope)
- 5) **Lincolnshire (near Lincoln)**
  - a. Lincoln (Hope)
- 6) **Powys / Hertfordshire border**
  - a. Kington (Breedon)
  - b. Leinthall (Breedon)
  - c. Woofferton (Hope)
  - d. Wellington (Hope)
- 7) **Shropshire**
  - a. Leaton (Breedon)
  - b. Shrewsbury (Hope)
  - c. Telford Halesfield (Hope)
  - d. Telford Trench (Hope)
- 8) **Lincolnshire / East Anglia**
  - a. Boston (Breedon)
  - b. Boston (Hope)
  - c. Long Sutton (Breedon)
  - d. Sleaford (Breedon)
  - e. Spalding (Hope)
  - f. Woodhall Spa (Breedon)

136. As a result of the assessments of the remaining 37 sites that failed the filter, the CMA found that:

- (a) Where the Parties' sites are geographically far from each other (more than [X] miles away) demand is unlikely to be located between the Parties' sites and/or there are at least three credible competitors that could compete for such demand post-Merger;

- (b) Where the Parties' sites are geographically either not very close to each other (between [X] and [X] miles apart), or close to each other (within [X] miles) there are at least three credible competitors closer to the site (within [X] miles) or located a similar distance away as the Parties that are capable of providing a significant constraint on the merged firm;
- (c) In a number of assessments, the CMA also took into account geographic features indicating that it was unlikely that the Parties' sites significantly competed pre-Merger, or, that any competition between the Parties could be reduced post-Merger;<sup>90</sup> and
- (d) Some third parties raised concerns in relation to these areas, however, the majority of competitors and customers who responded to the CMA's merger investigation in each of these areas, told the CMA that they had no concerns about the impact of the Merger.

137. As a result of these assessments, the CMA believes that there is no realistic prospect of an SLC arising as a result of the Merger in the supply of RMX in relation to the remaining 37 sites that failed the filter, namely:

- 1) Ashfield (Hope)
- 2) Banbury (Hope)
- 3) Cannock (Breedon)
- 4) Chaddesden (Hope)
- 5) Cheltenham (Hope)
- 6) Corby 1 (Hope)
- 7) Corby 2 (Breedon)
- 8) Daventry (Hope)
- 9) Dunbarton (Hope)
- 10) Dunfermline (Breedon)
- 11) Evesham (Breedon)
- 12) Four Ashes (Hope)
- 13) Goole (Hope)
- 14) Grantham (Breedon)
- 15) Greenock (Hope)
- 16) Hereford (Hope)
- 17) Hull (Hope)
- 18) Huntsmans (Breedon)
- 19) Ilkeston (Hope)
- 20) Kilmarnock (Breedon)

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For example: **Hull**: the CMA's investigation found that the nearest Breedon site to Hull (Hope), located to the north of the Humber estuary, is Breedon Humber, located south of the Humber Estuary. There is a charge between £10.80 and £12 for crossing the Humber Bridge, The CMA considered that [X].

- 21) Kings Lynn (Breedon)
- 22) Kirkcaldy (Breedon)
- 23) Ling Hall (Breedon)
- 24) Nottingham Dunkirk (Breedon)
- 25) Nottingham (Breedon)
- 26) Peterborough 2 (Breedon)
- 27) Peterborough 6 (Hope)
- 28) Pye Bridge (Hope)
- 29) Retford (Hope)
- 30) Shawell (Hope)
- 31) Skegness (Breedon)
- 32) Stafford (Hope)
- 33) Tamworth (Hope)
- 34) Tewkesbury (Breedon)
- 35) West Deeping (Breedon)
- 36) Wisbech 2 (Hope)
- 37) Worcester (Hope)

***Horizontal unilateral effects arising from the loss of existing competition in the production and supply of primary aggregates at the local level***

138. The CMA assessed whether there is a realistic prospect that the Merger will result in an SLC in the supply of primary aggregates at the local level as a result of the merged firm increasing the price of its primary aggregates products (or otherwise worsening its competitive offer), due to the loss of competition between the merging Parties.

***Framework of the local assessment***

139. The CMA followed a number of steps in carrying out the local competitive assessments, in particular:
- (a) Delineation of catchment areas;
  - (b) Identification of overlaps;
  - (c) Filtering to exclude from the analysis overlap sites/areas where competitive issues are unlikely to arise; and
  - (d) Local competitive assessment of sites/areas which fail the filters.
140. The CMA considers that the appropriate geographic frame of reference is local and, as a starting point for its analysis, it identified local geographic catchment areas as explained in paragraphs 73 to 77 above.

141. The CMA identified overlaps whenever at least one Breedon primary aggregate quarry was located within [X] miles<sup>91</sup> of a Hope aggregate quarry (and vice versa). The CMA also included in the overlap analysis Hope's aggregate depots and wharfs, on the basis that the merged firm could serve customers located within the local area of these depots/wharfs, in the same way as it serves customers located in the local area of an aggregate quarry.<sup>92</sup>
142. Out of 61 operational and planned primary aggregates sites<sup>93</sup> owned by the merging Parties, the CMA identified through this analysis 28 overlap sites.<sup>94</sup>
143. The CMA applied filters to identify those sites that required a more detailed competitive assessment.<sup>95</sup> The filters were:
  - (a) The Parties' post-transaction production shares<sup>96</sup> of primary aggregates would be greater than 33% within the [X] miles or [X] miles catchment area; and
  - (b) The Parties' sites are located within [X] miles of each other and the post-Merger fascia count within that distance would be three or lower (including the Parties).<sup>97</sup>
144. Having applied the filters, the CMA found that, of the 28 overlap sites, five sites required a more detailed competitive assessment.
145. Table 1 below lists these five sites.

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<sup>91</sup> Twice the size of Average Catchment Area calculated by Breedon.

<sup>92</sup> Hope's aggregates depots/wharfs were located at: Walsall (depot), Briton Ferry (wharf), Ashbury (rail depot), Theale (opening depot), [X].

<sup>93</sup> This included Breedon's 28 operational quarries, five Hope aggregates quarry, four Hope operational aggregates depots and one Hope's aggregates wharf. Hope also had two depots in the process of opening (Theale and Stratford) and one depot in Southampton under construction.

<sup>94</sup> The CMA did not consider as an overlap, areas where the focal sites are the following closed or leased sites: Hornsleasow (site that has been closed since 1976), Shenberrow (site that has been closed since 1996) and Three Gates (site that has been leased to a third party until 2042). Breedon submitted that it has never operated the two closed sites and that has no plans to do so in the future.

<sup>95</sup> Previous OFT filters in *Breedon / Aggregate Industries* and *Anglo / Lafarge* focused exclusively on shares of supply. The CC inquiries in these cases used a combination of shares of supply and fascia counts in filtering.

<sup>96</sup> Production shares have been used instead of market shares based on sales revenue or shares of capacity as this is the only data that is publically available. In addition there are difficulties in obtaining reliable figures for capacity in aggregates, as reserves give an indication of long-term capacity but may be difficult to access in the short to medium term and there are many variables in determining short-term capacity.

<sup>97</sup> As these filters are additive, the CMA only filtered out sites at this stage if the Parties combined market share was less than 33% and, if the other merging Parties site is within [X] miles, and there are at least three other competitors within [X] miles.

**Table 1: Sites that fail the filters**

<b>Party</b>	<b>Site</b>	<b>Filter failed</b>
<b>Breedon</b>	Caistor	Filter (a) and (b)
<b>Breedon</b>	Dunsville	Filter (a)
<b>Hope</b>	Holme Hall	Filter (a)
<b>Breedon</b>	Kettleby	Filter (a)
<b>Breedon</b>	Tan-y-Foel	Filter (a) and (b)

Source: CMA analysis

### *Local competitive assessment*

146. The CMA assessed the likelihood of the Merger resulting in horizontal unilateral effects in each of the overlap areas identified having applied the filters. The assessment was made by reference to the following factors.

*(a) Closeness of competition between the Parties:*

- (i) The number of Parties' sites and their geographic location within or just outside the local area;
- (ii) The distance between the Parties' sites;
- (iii) The Parties' shares of production of primary aggregates<sup>98</sup> within [X] miles and [X] miles of the site being assessed;
- (iv) The fascia reduction within [X] miles and [X] miles of the focal site;
- (v) The production share increment,<sup>99</sup> if any, within [X] miles and [X] miles of the focal site; and
- (vi) Third parties' views on the closeness of competition between the Parties in the local area, to the extent available.

*(b) Competitive constraints:*

- (i) The number, identity and location of competitors (relative to the Parties' sites) within or just outside the local area;
- (ii) The shares of production of primary aggregates of the competitors within [X] and [X] miles of the focal site; and

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<sup>98</sup> Production shares have been used instead of market shares based on sales revenue or shares of capacity as this is the only data that is publically available. It is also very difficult to reliably measure capacity at an aggregates sites

<sup>99</sup> Increment in this context means the addition in the production share the Parties will hold post-Merger, after adding the Party with the smallest share of production in that area.

- (iii) Third parties' views on the constraint from competitors in the local area, to the extent available.

147. The CMA carried out a local competitive assessment on each of the five sites that failed the filters (see Table 1). The CMA collected the views of competitors and customers of these sites. Competitors who responded to the CMA's merger investigation did not raise any concerns in any of these areas. No other third parties raised concerns in any of these areas. The CMA's local analysis identified that:

- (a) At two sites<sup>100</sup> where the Parties sites are geographically far away from each other (more than [X] miles away) the Parties combined share of production within [X] miles was low, and in each case there are at least five credible competitors that could compete for demand located between the Parties' sites post-Merger;
- (b) At one site<sup>101</sup> where the Parties sites are geographically not close to each other ([X] miles), the Merger would bring about only a small increment and therefore small change in incentives. In this case there are also five credible competitors located a similar distance to the site that are likely to exercise, individually or in aggregate, a significant competitive constraint on that site; and
- (c) At two sites<sup>102</sup> where the Parties' sites are geographically very close to each other (within [X] miles) the Merger brings about only a small increment and, therefore, a very small change in incentives, and there are at least twelve credible competitors located within [X] miles of the site that are likely to exercise, individually or in aggregate, a significant competitive constraint on that site.

148. The CMA therefore believes that there is no realistic prospect of an SLC arising as a result of the Merger in the supply of aggregates in any of these local areas.

*Vertical effects arising through input foreclosure of primary aggregates into RMX at the local level*

149. Primary aggregates are one of the key inputs (along with cement or other cementitious products) in the production of RMX (see paragraph 78). Breedon

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<sup>100</sup> Caister (Breedon) and Tan-Y-Foel (Breedon)

<sup>101</sup> Kettleby (Breedon)

<sup>102</sup> Holme Hall (Hope) and Dunsville (Breedon)

and Hope are active in the production and supply of both primary aggregates and RMX.

150. The CMA considered whether the Parties' presence in both the production and supply of primary aggregates (upstream) and the production and supply of RMX (downstream) may give rise to vertical effects through input foreclosure. The CMA considered whether the Parties could increase the price they charge for primary aggregates to rival RMX suppliers (in particular those not vertically integrated in primary aggregates) in a local area in order to make it harder for them to compete and divert RMX sales from rival RMX suppliers to the Parties, ultimately lessening competition in the supply of RMX within the local area.<sup>103</sup>
151. In line with its Guidance, the CMA considered a number of factors to understand whether the merged firm could foreclose its downstream RMX rivals:<sup>104</sup>
- (a) **Ability:** The merged firm would need to have the ability to harm downstream competitors through, for example, substantially increasing the price of aggregates sold to them. Ability arises to the extent that downstream rivals are dependent on the merged firm for the supply of aggregates in a local area and cannot switch to/rely on alternative suppliers of this product.
  - (b) **Incentive:** The merged firm would need to have the incentives to engage in this strategy. Incentives arise to the extent that the merged firm is able to (more than) offset the revenue lost through reduced sales of aggregates to competitor RMX suppliers with an increased revenue through its sales of RMX. This means that factors such as the extent of competition in the supply of RMX are to be considered.
  - (c) **Effect:** To the extent that the merged firm would have the ability and incentive to foreclose downstream rivals, the CMA considers the impact of such foreclosure on competition on the downstream market.<sup>105</sup>

#### *Framework of the local assessment*

152. As set out below, the CMA followed a number of steps in its local competitive assessments for addressing this vertical theory of harm, in particular:

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<sup>103</sup> [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, paragraph 5.6.9.

<sup>104</sup> [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 5.6.6.

<sup>105</sup> To the extent that the merged firm would have the ability and incentive to foreclose downstream rivals, the CMA considered the impact of such foreclosure on competition on the downstream market. However, as the CMA did not find that Breedon would have the ability or incentives to foreclose, the CMA did not assess effect.

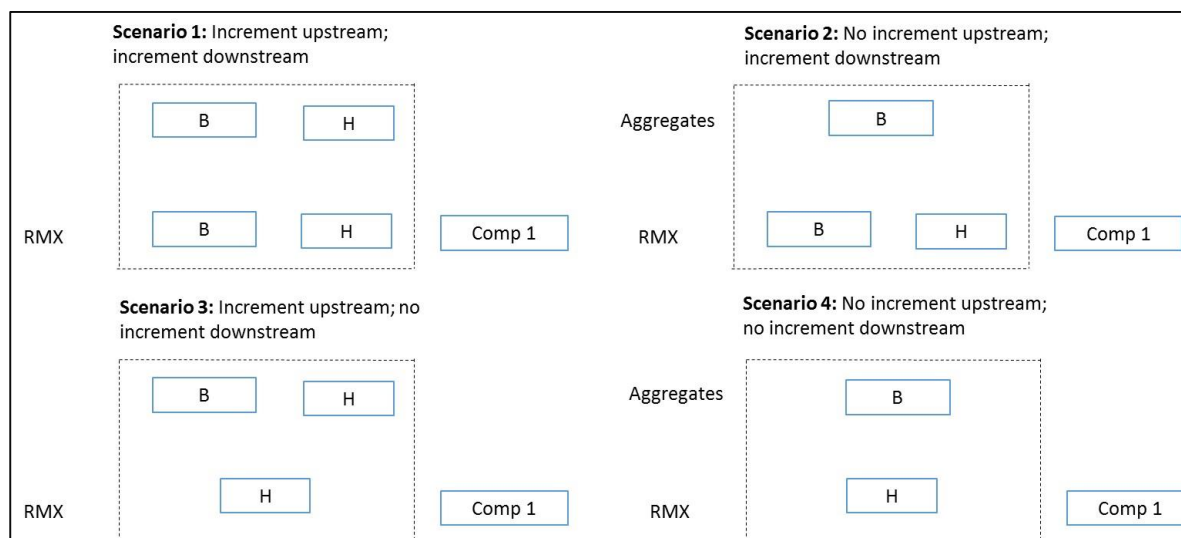
- (a) Delineation of catchment areas;
  - (b) Identification of vertical overlaps; and
  - (c) Local competitive assessment of sites where a vertical overlap was identified to determine whether the enlarged Breedon could have the ability to foreclose its downstream RMX rivals at the local level.
153. The CMA believes that the geographic frame of reference for both aggregates and RMX is local and delineates catchment areas (see paragraph 75 and paragraph 92 above).
154. The CMA identified a vertical overlap whenever at least one Breedon RMX site was located within [X] miles of a Hope aggregate site (and vice versa).<sup>106</sup> There are four ways in which the Merger could create a vertical overlap in a local area:
- (a) **Scenario 1:** Where both Parties were active in aggregates and RMX pre-Merger;
  - (b) **Scenario 2:** Where only one Party was active in aggregates and both Parties were active in RMX;
  - (c) **Scenario 3:** Where both Parties were active in aggregates and only one Party is active in RMX; and
  - (d) **Scenario 4:** Where one Party was active in aggregates and the other Party was active in RMX.

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<sup>106</sup> The CMA recognises that to identify vertical overlaps, it would be more appropriate to centre the average catchment area for aggregates for the supply of aggregates on the independent downstream RMX producers to capture the sources of aggregates supply available to each of them. However, given the data available in the Phase 1 investigation, the CMA could not carry out this analysis and it therefore centred the catchment areas on the Parties' aggregates sites.



**Figure 2: Vertical overlaps created by the Merger**



Source: CMA

155. In Scenario 1 and Scenario 3, the Merger would increase the merged firm's presence, and potentially market power, in the local aggregates market (upstream). This could lead to an increased ability to engage in input foreclosure. However, in all the above scenarios, the Merger could also affect the incentives of the merged firm to engage in input foreclosure, because the profitability of such a strategy is likely to change depending on the balance of revenue earned by the Parties both upstream and downstream.
156. Using the approach above, out of the 61 operational and planned primary aggregates sites<sup>107</sup> of the Parties and 222 operational, mothballed, closed and planned fixed RMX sites, the CMA identified 34 vertical overlaps.

### *Local competitive assessments*

157. For each of the vertical overlaps identified, the CMA first considered whether the merged firm may have the ability to foreclose its downstream RMX rivals at the local level.
158. Table 2 below illustrates the Parties' primary aggregates production shares<sup>108</sup> within [ $\infty$ ] miles of the Parties' primary aggregate site that give rise to a vertical overlap in the local area.

<sup>107</sup> See footnote 93.

<sup>108</sup> As noted at footnote 96, the CMA used production shares instead of shares based on sales revenue or a sites capacity as this is the only data publically available.

Table 2: Parties' primary aggregate production shares within [X]miles of a primary aggregates site

Party	Site	Share of aggregate production within [X] miles		
		Breedon Share	Hope Share	Combined share
Breedon	Ardchronie	[35 – 45]	0.0	[35 – 45]
Breedon	Ardeer	[5 – 15]	0.0	[5 – 15]
Breedon	Astley Moss Quarry	[0 – 5]	[15 - 25]	[15 – 25]
Breedon	Ballswood	[5 – 10]	0.0	[5 – 10]
Breedon	Balmullo	[25 – 35]	0.0	[25 – 35]
Breedon	Beauly	[25 – 35]	0.0	[25 – 35]
Hope	Black Cat Quarry	[0 – 5]	[0 – 5]	[0 – 5]
Breedon	Boyne Bay	[25 – 35]	0.0	[25 – 35]
Breedon	Breedon Hill	[5 – 15]	0.0	[5 – 15]
Breedon	Clatchard Craig	[15 – 25]	0.0	[15 – 25]
Breedon	Clearwell Quarry	[5 – 15]	0.0	[5 – 15]
Breedon	Cloud Hill	[5 – 15]	0.0	[5 – 15]
Breedon	Denbigh	[5 – 15]	0.0	[5 – 15]
Breedon	Dunsville	[0 – 5]	[15 – 25]	[25 – 35]
Breedon	Earls Barton	[0 – 5]	[5 – 15]	[5 – 15]
Breedon	Fron Haul/Lloyds	[5 – 15]	0.0	[5 – 15]
Breedon	Furnace	[15 – 25]	0.0	[15 – 25]
Hope	Holme Hall	[0 – 5]	[5 – 15]	[15 – 25]
Breedon	Huntsmans	[5 – 15]	[5 – 15]	[15 – 25]
Breedon	Kelsey Rd	[15 – 25]	0.0	[15 – 25]
Breedon	Kettleby	[0 – 5]	[25 – 35]	[35 – 45]
Breedon	Leaton	[15 – 25]	[0 – 5]	[15 – 25]
Breedon	Leinthall	[15 – 25]	0.0	[15 – 25]
Breedon	Meadowside	[35 – 45]	0.0	[35 – 45]
Breedon	Netherglen	[15 – 25]	0.0	[15 – 25]
Breedon	Norton Bottoms	[5 – 15]	[15 – 25]	[25 – 35]
Breedon	Orrock	[5 -15]	0.0	[5 - 15]
Breedon	Roths Glen	[15 – 25]	0.0	[15 – 25]
Breedon	Sorn	[5 -15]	0.0	[5 – 15]
Breedon	South Witham	[5 – 15]	0.0	[5 – 15]
Breedon	Tan-y-Foel	[0 – 5]	0.0	[0 – 5]
Breedon	Tongland	[15 – 25]	0.0	[15 - 25]
Hope	Walsall	[5 – 15]	[0 – 5]	[5 - 15]
Breedon	West Deeping	[0 – 5]	0.0	[0 – 5]

Source: CMA calculations.

159. When considering the Parties' ability, post-Merger, to foreclose their downstream RMX rivals at the local level, the CMA's *Merger Assessment Guidelines* note that where the market share for the merged firm is less than 30 per cent this will not often give the CMA cause for concern over input

foreclosure.<sup>109</sup> As such where the Parties' combined share of production of primary aggregates is less than 30 per cent, the CMA considers that this is not sufficient to give the merged firm the ability to foreclose downstream RMX competitors in these areas.

160. The CMA has considered the four local areas where the Parties have the greatest shares of primary aggregates production (between 30% and 40%) in greater detail in order to test more closely if the Parties are likely to have the ability to foreclose downstream RMX producers in these areas. The CMA's assessment in relation to four areas where the Parties' share of production of primary aggregates would increase over the 30 per cent threshold as a result of the Merger was carried out by reference to the following factors:

(a) Closeness of competition

- (i) The number of Parties' primary aggregate and RMX sites and their geographic location within or just outside the local area;
- (ii) The distance between the Parties' sites;
- (iii) The Parties' shares of production of primary aggregates<sup>110</sup> within [X] miles and [X] miles of the site being assessed; and
- (iv) The production share increment,<sup>111</sup> if any, within [X] miles of the focal site.

(b) Competitive constraints:

- (i) The number, identity and location of competitors (relative to the Parties' sites) within or just outside the local area; and
- (ii) The shares of production of primary aggregates of the competitors within [X] miles of the focal site.

161. One third party expressed a concern in relation to the vertical integration of Breedon and Hope, which it felt may reduce the sources of primary aggregates supply to independent RMX producers.

162. The CMA noted that in three out of four vertical overlaps where the merging Parties' shares of production in primary aggregates are greatest (between

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<sup>109</sup> [Merger Assessment Guidelines](#), paragraph 5.3.5.

<sup>110</sup> Production shares have been used instead of market shares based on sales revenue or shares of capacity as this is the only data that is publically available. It is also very difficult to reliably measure capacity at an aggregates sites.

<sup>111</sup> Increment in this context means the addition in the production share the Parties will hold post-Merger, after adding the Party with the smallest share of production in that area.

30% and 40%), there is no increment upstream, ie there is no reduction in the sources of supply available post-Merger. In relation to the fourth area (Kettleby), the CMA has carried out a local competitive assessment and found that sufficient alternative primary aggregates suppliers remain post-Merger to constrain the merged firm.

163. Finally the CMA noted that in all these areas there seems to be a number of independent primary aggregates suppliers, who are not vertically integrated, in addition to the Parties and any vertically integrated Major.

#### *Assessment*

164. As a result of the assessments of the four sites the CMA found that:
- (a) There was no horizontal overlap in primary aggregates between the Parties within the [✂] mile catchment area for any of the sites;
  - (b) In each area, there would remain a minimum of three competitor fascia in the production of primary aggregates; and
  - (c) In each area, at least three competitor sites were located close to the focal site and significantly closer than the competing site.
165. Overall, the CMA considers that, given the Parties' production shares and the number and location of primary aggregates competitors within each local area discussed above, the merged firm would not have sufficient market power to be able to foreclose downstream RMX producers.

#### *Conclusion on vertical effects arising through input foreclosure of primary aggregates into RMX*

166. On the basis of the evidence above, the CMA considers that there is no realistic prospect of the merged firm having the ability to foreclose the supply of primary aggregates to downstream RMX competitors post-Merger.
167. The CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of primary aggregates to downstream competitors in RMX supply at the local level.

#### *Vertical effects arising through input foreclosure of primary aggregates into asphalt at the local level*

168. Primary aggregates is one of the key inputs (along with bitumen) in the production of asphalt. Hope is not active in the production and supply of asphalt, but it does make sales of primary aggregates to other asphalt

producers. On the other hand, Breedon currently operates in the production and supply of both primary aggregates and asphalt.

169. The CMA considered whether the Parties' presence in both the production and supply of primary aggregates (upstream) and the production and supply of asphalt (downstream) may give rise to input foreclosure. The CMA considered whether the Parties could increase the price they charge for primary aggregates post-Merger to rival asphalt suppliers (in particular those not vertically integrated in primary aggregates) in a local area in order to make it harder for them to compete. This could result in diverting asphalt sales from them to the Parties, ultimately lessening competition in the supply of asphalt within the local area.

*Framework of the local assessment*

170. The CMA believes that the geographic frame of reference for both primary aggregates and asphalt is local and delineated catchment areas as explained in the paragraph 75 and paragraph 99 above.
171. The CMA identified a vertical overlap whenever at least one Breedon asphalt site is located within [X] miles of a Hope aggregate site. As Hope does not produce asphalt there are two ways in which the Merger could create a vertical overlap in a local area:
- (a) **Scenario 1:** Where both Parties are active in aggregates and Breedon is active in asphalt; and
  - (b) **Scenario 2:** Where only Hope is active in aggregates and Breedon is active in asphalt.
172. Similarly to the scenarios explained in relation to the assessment of vertical effects arising through input foreclosure of aggregates into RMX above (see paragraphs 149 to 156), under scenario (1) the Merger increases concentration amongst primary aggregate suppliers in the area and therefore the Parties could have an increased ability to engage in input foreclosure. However, under both scenarios, the Merger may also affect the incentives of the Parties to engage in foreclosure, because the profitability of such a strategy is likely to change depending on the balance of revenue earned by the Parties both upstream and downstream.
173. Using the approach above, out of Hope's 12 operational and planned primary aggregates sites and Breedon's 26 operational asphalt plants, the CMA identified five vertical overlaps created as a result of the Merger.

### *Local competitive assessments*

174. For each of the vertical overlaps identified, the CMA considered whether the combined Breedon and Hope business could have the ability to foreclose its downstream asphalt rivals at the local level in the area surrounding these sites.
175. Table 3 below illustrates the Parties' primary aggregates production shares within 32.2 miles of the Parties' aggregate site that give rise to a vertical overlap in the local area.

**Table 3: Parties' primary aggregate shares within [X] miles of an aggregates site**

Party	Site	Share of Primary aggregates within [X] miles		
		Breedon Share	Hope Share	Combined shares
Hope	Black Cat Quarry	[0 – 5]	[0 – 5]	[0 – 5]
Hope	Dowlow	[0 – 5]	[10 – 15]	[10 – 15]
Hope	Holme Hall	[0 – 5]	[10 – 15]	[15 – 25]
Hope	Hope	[0 – 5]	[15 – 25]	[15 – 25]
Hope	Walsall	[5 – 15]	[0 – 5]	[5 – 15]

Source: CMA calculations.

176. The CMA noted that the Parties' primary aggregates production shares in each of the overlap areas are below [15 – 25]%. The CMA, therefore, considered that the Parties would not have a significant degree of market power in the supply of primary aggregates in these local areas post-Merger.<sup>112</sup>

### *Conclusion on vertical effects arising through input foreclosure of primary aggregates into asphalt*

177. On the basis of the evidence above, the CMA considers that there is no realistic prospect of the Parties having the ability to foreclose the supply of primary aggregates to downstream asphalt competitors post-Merger.
178. The CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of primary aggregates to downstream competitors in the supply of asphalt at the local level.

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<sup>112</sup> See paragraph 159 which comments that the CMA's Merger Assessment Guidelines note that where the market share for the merged firm is less than 30 per cent this will not often give the CMA cause for concern over input foreclosure.

### *Vertical effects arising through input foreclosure of cement into RMX*

179. Hope (but not Breedon) is active upstream in the production and supply of cement and both Hope and Breedon are active downstream in the production and supply of RMX, which uses cement as a key input.
180. The CMA considered whether the Parties' presence, post-Merger, in both the production and supply of cement (upstream) and the production and supply of RMX (downstream) may give rise to input foreclosure. The CMA considered whether the Parties could increase the price they charged for cement to rival RMX suppliers (in particular those not vertically integrated in cement) in order to make it harder for them to compete and/or divert RMX sales from them to the Parties, ultimately lessening competition in the supply of RMX within the local area.
181. The CMA considered whether the Parties could have the ability to foreclose its downstream RMX rivals.
182. As mentioned in paragraphs 105 to 108, the CMA believes, in line with previous inquiries, that the geographic frame of reference for the supply of cement is GB. On the basis of this geographic frame of reference, Hope's cement production shares in GB in 2014, as estimated by the Parties, are low (15 - 25%).

### *Conclusion on vertical effects arising through input foreclosure of cement into RMX*

183. On the basis of this evidence, the CMA believes that the merged firm would not have the ability to foreclose the supply of cement to downstream RMX suppliers.
184. The CMA believes that there is no realistic prospect of an SLC arising through input foreclosure in the supply of cement to downstream RMX competitors, as a result of the Merger.

### **Barriers to entry and expansion**

185. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent a substantial lessening

of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.<sup>113</sup>

## **RMX**

186. Previous investigations considered barriers to entry and expansion in RMX:

- (a) In *Anglo / Lafarge* the CC found that the initial capital requirement for a new RMX plant of between £300,000 and £3 million was generally not considered to be a significant barrier to entry, in particular since the range of capital costs for 'efficient'-sized entry was considerably lower for RMX than for any other relevant product. The CC found that the cost of expanding production capacity may be similar to the cost of setting up a new plant. The CC concluded that, given weak market conditions and excess capacity, it did not consider it likely that any significant expansion would take place unless market conditions significantly improved and were perceived to be sustainable.<sup>114</sup>
- (b) In *Breedon / Aggregate Industries* the CC found that barriers to potential entry were low. Access to aggregates of the appropriate quality was the most important barrier as RMX producers require specific high-quality grades of aggregate and nearly all producers own their own quarry. The CC concluded that the need for planning permission or the initial costs of setting up a new plant would constitute a barrier that would stop new entry in the right location.<sup>115</sup>

187. Breedon submitted that barriers to entry and expansion in RMX markets are generally low, both to new entrants and to expansion by existing market players.

188. Breedon estimated that:

- (a) **New / replacement plants (entry and expansion):** a second-hand RMX plant could be acquired and made operational for approximately £[REDACTED] and a new plant for less than £[REDACTED]. Breedon submitted that planning permission is unlikely to operate as a particular barrier to entry to establishing an RMX plant and permission is likely to be able to be obtained relatively quickly, commonly within a few months. Breedon further explained that, where the RMX plant is being established at an

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<sup>113</sup> [Merger Assessment Guidelines](#), from paragraph 5.8.3.

<sup>114</sup> [Anticipated construction materials joint venture between Anglo American PLC and Lafarge S.A](#), Appendix S "Entry and Expansion", paragraphs 101 to 105.

<sup>115</sup> [Completed acquisition by Breedon Aggregates Limited of certain Scottish assets of Aggregate Industries UK Limited](#), paragraph 6.201.



existing quarry, planning permission may not even be required as the RMX plant may fall within the concept of a "permitted development" on the aggregates site. Even for new RMX plants, planning permission is not typically difficult to obtain.

(b) **Mobile RMX plants (entry and expansion):** A mobile RMX plant could be acquired for approximately £[REDACTED] - £[REDACTED] new, or more cheaply if purchased second-hand. Breedon submitted that mobile plants are often established in local areas in response to specific, one-off demand, usually for large-scale or particular contracts.

(c) **Mixer trucks (expansion):** New mixer trucks can be acquired for approximately £[REDACTED] per truck, and second-hand between approximately £[REDACTED] and £[REDACTED] per truck (depending on age, condition and mileage etc).

189. Finally, Breedon also submitted that entry may also be achieved through the use of volumetric trucks, which can be acquired for approximately £[REDACTED] or can be hired for around £[REDACTED] per week.

### *Third party comments*

#### *New entry*

190. The CMA gathered evidence from a number of competitors, both Majors and independents, identified by Breedon, about their plans to open new RMX sites in competition to the Parties in various locations. Three competitors told the CMA that they had recently opened a new RMX site, or that they were about to do so.

#### *Expansion*

191. Two competitors told the CMA that where capacity limits are reached this is normally a result of a lack of concrete mixer trucks at the site rather than the site reaching the limit of its physical throughput.

192. The CMA discussed with a number of competitors how easy it was to increase the number of trucks at a site:

(a) Two of the Major competitors told the CMA that it would consider [REDACTED].

(b) Most competitors explained that they if they planned to expand they could buy more trucks to add to their fleet, with estimates of the cost ranging from between £88k and £150k. While one independent operator estimated that the lead time could be a matter of weeks, most competitors considered that a lead time of between three and six months was likely.

(c) One of the Majors noted that it could [✂].

(d) Another Major submitted that it only [✂].

*Conclusion on barriers to entry and expansion (RMX)*

193. Although some competitors noted that there can be a lead time on new mixer trucks, which may make it more difficult to rapidly expand, the CMA considers that adding trucks to a fleet is a relatively low capital investment and is unlikely, in and of itself, to be a significant barrier to expansion.
194. Some third parties have recently entered the market in various areas. This demonstrates that, in these cases at least, capital costs of plant and equipment or planning rules were not a significant barrier to entry. Consistent with the findings of previous inquiries, the CMA considers that capital barriers to entry and expansion into RMX are relatively low. Importantly, however, as discussed in the next paragraph, for entry or expansion to be timely, likely and sufficient, an RMX producer must take an investment decision that even a small capital investment is worth the outlay and expense and this will rely on the extent of demand in a specific area in the short, medium and long-term.
195. Although barriers to entry are relatively low, entry is only likely to occur in areas where an operator takes the view that there will be enough new projects in that locality to support its investment. The CMA needs to be convinced during its Phase 1 investigation that entry is likely to be sufficiently capable of preventing any prospect of an SLC.
196. The CMA has not been provided with site specific evidence or sufficient evidence of a general nature such that it can conclude that entry will be likely, timely or sufficient to offset the reduction in rivalry in each of the 27 areas identified by the CMA.
197. However, where the Parties have submitted that new RMX sites are likely to open in specific areas the CMA has considered the available evidence on a site by site basis in its local area analysis and assessed if this is likely, timely and sufficient to mitigate an SLC in that area.

***Aggregates, asphalt and cement***

198. The CMA has not found any realistic prospect of an SLC in the supply of aggregates, asphalt and cement hence the CMA has not had to conclude on barriers to entry or expansion in any of these markets as the Merger does not give rise to competition concerns on any basis.

## **Third party views**

199. The CMA contacted customers and competitors of the Parties. The majority of competitors and some customers raised concerns regarding the Merger. These are detailed in each local assessment in the Annex to this decision. No other third parties raised concerns about the Merger.
200. Third party comments have been taken into account where appropriate in the competitive assessment above.

## **Decision**

201. Consequently, the CMA believes that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the United Kingdom.
202. The CMA therefore believes that it is under a duty to refer under section 33(1) of the Act. However, the duty to refer is not exercised<sup>116</sup> whilst the CMA is considering whether to accept undertakings<sup>117</sup> instead of making such a reference. The Parties have until Tuesday 19 April<sup>118</sup> to offer an undertaking to the CMA.<sup>119</sup> The CMA will refer the Merger for a phase 2 investigation<sup>120</sup> if the Parties do not offer an undertaking by this date; if the Parties indicate before this date that they do not wish to offer an undertaking; or if the CMA decides<sup>121</sup> by Tuesday 26 April that there are no reasonable grounds for believing that it might accept the undertaking offered by the Parties, or a modified version of it.

**Sheldon Mills**  
**Senior Director**  
**Competition and Markets Authority**  
**12 April 2016**

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<sup>116</sup> Section 33(3)(b) of the Act.

<sup>117</sup> Section 73 of the Act.

<sup>118</sup> Section 73A(1) of the Act.

<sup>119</sup> Section 73(2) of the Act.

<sup>120</sup> Sections 33(1) and 34ZA(2) of the Act.

<sup>121</sup> Section 73A(2) of the Act.

## Local analysis of RMX sites

203. The CMA carried out a local analysis of areas where it considered the Merger may give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects. As a result of its investigation, the CMA identified 27 sites in respect of which it believes there is a realistic prospect of an SLC in the supply of RMX as a result of the Merger. The local analysis of these local areas is set out below.

- 1) Cloddach (Hope)
- 2) Netherglen (Breedon)
- 3) Rothes Glen (Breedon)
- 4) Clearwell (Breedon)
- 5) Coleford (Hope)
- 6) Grimsby (Breedon)
- 7) Immingham (Hope)
- 8) Scunthorpe (Hope)
- 9) Humber (Breedon)
- 10) Beaulieu (Breedon)
- 11) Longman (Breedon)
- 12) Inverness (Hope)
- 13) Lincoln (Hope)
- 14) Kington (Breedon)
- 15) Leintworth (Breedon)
- 16) Woofferton (Hope)
- 17) Wellington (Hope)
- 18) Leaton (Breedon)
- 19) Shrewsbury (Hope)
- 20) Telford Halesfield (Hope)
- 21) Telford Trench (Hope)
- 22) Boston (Breedon)
- 23) Boston (Hope)
- 24) Long Sutton (Breedon)
- 25) Sleaford (Breedon)
- 26) Spalding (Hope)
- 27) Woodhall Spa (Breedon)

## **CLODDACH (Hope Site), NETHERGLEN (Breedon Site) and ROTHES GLEN (Breedon Site)**

204. Figures 3 and 4 show 10 and 14 mile catchment area maps of the local area centred on the Breedon site at Netherglen and the Hope site at Cloddach respectively. Given the proximity of Rothes Glen to Netherglen, a map centred on Rothes Glen would be very similar to that centred on Netherglen and is not shown. These maps include the location of the Parties' and competitors' fixed RMX plants. Figure 5 shows a [X] mile catchment area map centred on Netherglen, which is presented given the low density of RMX plants in this part of Scotland.

**Figure 3: Map of the local area centred on Netherglen showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 4 Map of the local area centred on Cloddach showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 5: Map of the local area centred on Netherglen showing fixed RMX sites within [X] miles**

[X]

Source: Breedon

## **Local analysis**

### ***Concentration measures***

205. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 4.

**Table 4: Shares of fixed RMX sites in the catchment areas of Netherglen, Rothes Glen and Cloddach**

Catchment area distance from Netherglen and Rothes Glen			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[55 – 65]%	4:3	[45 – 55]%	4:3
Catchment area distance from Cloddach			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[55 – 65]%	4:3	[55 – 65]%	4:3

Source: CMA analysis

### ***Closeness of competition***

206. **The Parties are very close to each other:** Netherglen and Rothes Glen are located four miles and five miles, respectively, from Cloddach.
207. **High shares of fixed RMX sites within the [X] mile catchment areas:** The Parties have three out of five sites (two Breedon and one Hope) in the [X] mile catchment area when centred on Cloddach, Netherglen or Rothes Glen.
208. **High shares of fixed RMX sites within the [X] mile catchment areas:** The Parties' share of sites remains at three out of five sites in the [X] mile catchment area around Cloddach. The Parties' share of sites decrease to three out of six sites within the [X] mile catchment area when centring on the Breedon sites due to picking up another independent site.<sup>122</sup>

### ***Location of customers***

209. The Parties provided a heat map of customers served by Cloddach, Netherglen and Rothes Glen see Figures 6 to 8. This shows [X].

**Figure 6: Map of the local area centred on Cloddach showing the location of Cloddach's customers**

[X]

Source: Hope

<sup>122</sup> However, this does not add an additional fascia.

**Figure 7: Map of the local area centred on Netherglen showing the location of Netherglen's customers**



Source: Breedon

**Figure 8: Map of the local area centred on Rothes Glen showing the location of Rothes Glen's customers**



Source: Breedon

### ***Competitive constraints***

210. **Fascia Reduction:** In both the [REDACTED] and [REDACTED] mile catchment area there will be a reduction in fascia from four to three.
211. **Two competitors are geographically close to Cloddach and the Breedon sites:** Two independent RMX sites (owned by Tennant Quarries and Leiths) are located four miles and eight miles, respectively, from Cloddach. These sites are seven miles and 11 miles, respectively, from Netherglen and Rothes Glen.
212. **One competitor site (no additional fascia) is located at the edge of the local area:** The independent competitor Leiths has another site located to the south of the local area, nine miles from the Breedon sites and 14 miles from Cloddach.
213. **Volumetric trucks:** Breedon submitted that there are three competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's concerns.

### ***Third parties' views***

214. Competitors:
- (a) A competitor told the CMA that Breedon and Hope compete strongly in this local market and [REDACTED]. This competitor told the CMA that volumetric trucks are a constraint but only at the small volume end of the market. This competitor expressed concerns that the Merger will give the merged entity a dominant share in the Elgin area.

(b) Another competitor told the CMA that Breedon and Hope compete closely with one another in this area and [REDACTED]. This competitor also said that volumetric trucks are not a constraint in this area.

(c) [REDACTED].

215. Customers:

(a) Two customers told the CMA that, in the event of a price increase, they would switch supplier. They both said that Leiths and Lovies were strong competitors to the Parties and neither raised any concerns with the Merger.

(b) However, another customer did express concerns in relation to the effect of the Merger in the Elgin area.

### ***Countervailing factors***

216. **Entry into RMX:** Breedon submitted that these plants are in rural Scotland where longer than usual haulage distances are common. In addition, the local geography is particularly suitable for large scale wind energy and hydroelectric projects, which can increase demand for RMX. These factors, as well as the ability to access borrow pits, makes this area an attractive location for new entry, in particular for operators of mobile plants.<sup>123</sup> However Breedon did not provide evidence of any current planned entry in RMX in this area.

217. Breedon also said that there are eight quarries (three operated by Tarmac and the rest by independents) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, it would not be sufficient to offset the concerns.

218. Breedon also submitted that Tarmac has a mothballed RMX plant at Lochinver which could readily be brought back into operation should Tarmac consider there was a competitive opportunity. The CMA contacted Tarmac. They told the CMA that although they had stored a mobile RMX plant at the Lochinver quarry, it was never operational there. The mobile RMX plant has been moved elsewhere. Tarmac believe it does not have a mothballed RMC plant at Lochinver quarry that could readily be brought back into operation. The CMA has not, therefore included this site in its analysis.

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<sup>123</sup> For example, Breedon submitted two examples in the period 2013-2014 in which RJ McLeod established mobile plants in the local area (Berryburn Wind Farm and Clashindarroch Wind Farm), accounting for in excess of 25,000 cubic metres of sales of RMX to customers.



## **Conclusion**

219. The CMA noted that the Parties' sites are geographically very close to each other and they appear to be each other's closest competitor, particularly for customers in and around Elgin. The heat maps demonstrate that both Breedon and Hope currently [REDACTED]. Post-Merger there will only be two competing RMX producers located within [REDACTED] miles of any of the Parties' sites. In the case of Netherglen there will be one further competing RMX producer located between [REDACTED] and [REDACTED] miles away. As a result, the Parties will have a high share of sites in this area. All of the competitors in this area are independents, two of which told the CMA that they are not strong competitors to the Parties. Some third parties expressed concerns about competition in this local area. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely so as to offset its concerns.
220. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Cloddach and the Breedon sites at Netherglen and Rothes Glen.

## CLEARWELL (Breedon Site) and COLEFORD (Hope Site)

221. Figure 9 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Clearwell. Given the proximity of Coleford to Clearwell, a map centred on Coleford would be very similar to that centred on Clearwell and is not shown. This map includes the location of the Parties' and competitors' fixed RMX plants. Figure 10 shows a [X] mile catchment area map centred on Clearwell, which is presented as the only additional sites in the [X] mile radius are on the south side of the River Severn, which, due to the location of crossings across the river, are not the closest competitors of the Parties' sites by road.

**Figure 9: Map of the local area centred on Clearwell showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 10: Map of the Clearwell local area centred on Clearwell showing fixed RMX sites within [X] miles**

[X]

Source: Breedon

## Local analysis

### *Concentration measures:*

222. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 5 below.

**Table 5: Shares of fixed RMX sites in the catchment areas of Coleford and Clearwell**

Catchment area distance from Coleford and Clearwell			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95-100]%	2:1	[45 – 55]%	4:3

Source: CMA analysis

### *Closeness of competition*

223. **The Parties are very close to each other:** Clearwell and Coleford are less than two miles away from each other.

224. **Very high shares of fixed RMX sites within the [X] mile catchment areas:** The Parties will own all sites (one Breedon and one Hope) in the [X] mile catchment area when centred on either site.
225. **High shares of fixed RMX sites within the [X] mile catchment areas:** The Parties' shares of sites decreases to two out of four within the [X] mile catchment area when centring on either site due to picking up two competitor sites (one Hanson and one independent).

### ***Competitive constraints***

226. **Fascia Reduction:** In the [X] catchment area there will be a reduction in fascia from two to one; in the [X] mile catchment area there will be a reduction in fascia from four to three.
227. **Two competitor sites (two fascia) are located [X] catchment area:** As can be seen in Figure 9 Hanson has a site located to the south of the local area 14 miles away. There is also an independent competitor to the east 11 miles away. However, the location of crossings across the river Severn mean that neither of these sites are the closest competitors by road.
228. **Two competitors (two additional fascia) are located [X] mile catchment area:** As can be seen in Figure 10 there are two Cemex sites (Wickwar and Gloucester 1) and one independent site (Cindeford) located to the east, [X], 14 miles and 15 miles away respectively from the Parties' sites.
229. **Volumetric trucks:** Breedon submitted that there are five competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Third parties' views***

230. Competitors:
- A competitor told the CMA that it does not have a material presence in the area immediately around the Parties' sites. It has a number of sites within a 30 miles radius but these are unable to reach the relevant market.
231. Customers:
- (a) A customer told the CMA that it would not accept a price increase and that it would switch to Cemex, Hanson [X]. It also said that Breedon and

Hope compete in this area and that it uses both. This customer did not express concerns about the Merger.

- (b) Another potential customer told the CMA that the current supply chain should not be affected by the Merger in the short term as the rates are fixed until the end of the year. However, they said that may change next year, whereupon they would reconsider their options.
- (c) Another customer told the CMA that it would not accept a price increase and would seek an alternative source. However it did not say to which alternative suppliers it would switch. In the future this customer would consider using volumetric trucks if it was unable to obtain a good deal from fixed sites in the local area.
- (d) Another customer expressed concerns that the Merger would create a monopoly in the Gloucestershire / Monmouthshire / Shropshire area. It was concerned that within the Forest of Dean (the local area around the sites) it would have no option but to continue using the Parties should they increase their prices by 10- 20% as no other supplier could economically deliver RMX into the area. This party said that, following the Merger, it would lose the ability of using Breedon and Hope to bargain against each other in this area.

### ***Countervailing factors***

232. **Entry into RMX:** Breedon submitted that a local independent, Matthew Patterson, is planning to open new RMX plants in Moreton Valence and Stroud. Matthew Patterson also owns a former Tarmac RMX site in Coleford, which has planning permission to open as an RMX plant, and he has a further site suitable for RMX production at Gloucester (which does not currently have the required planning permission). The CMA has been unable to contact Matthew Patterson to confirm the validity of the submission.

### ***Conclusion***

233. The CMA noted that the Parties' plants are geographically very close to each other and they are each other's closest competitors. There are two RMX producers located between [X] and [X] miles of the Parties' plants but these competitors have no direct road access to the area where the Parties are active. Concerns about the lack of competition in this local area were raised independently by a third party. The CMA has been unable to confirm Breedon's submission that a local independent is planning to open new RMX sites in the area. Nevertheless, given that lack of other competitors nearby,

even if this were confirmed, the CMA would not consider it sufficient to prevent a realistic prospect of an SLC in this area as a result of the Merger.

234. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon sites at Clearwell and the Hope site at Coleford.

# GRIMSBY (Breedon Site), IMMINGHAM (Hope Site), HUMBER (HOPE SITE) and SCUNTHORPE (Hope Site)

## Scunthorpe

235. Figure 11 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Scunthorpe. This map includes the location of the Parties' and competitors' fixed RMX plants. Figure 12 shows a [X] mile catchment area map centred on Scunthorpe as there a quick road links into Scunthorpe due to good motorway access.

**Figure 11: Map of the local area centred on Scunthorpe showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 12: Map of the local area centred on Scunthorpe showing fixed RMX sites within [X] miles<sup>124</sup>**

[X]

Source: Breedon

## Local analysis

### **Concentration measures:**

236. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 6 below.

**Table 6: Shares of fixed RMX sites in the catchment area of Scunthorpe**

Catchment area distance from Scunthorpe			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	4:3	[45 – 55]%	4:3

Source: CMA analysis

<sup>124</sup> Note: This map shows one additional fascia, an independent competitor 21 miles away at Finningley. However, the CMA's investigation has uncovered that this is an additional Cemex site. This is not an additional fascia.

### ***Closeness of competition***

237. **The Parties are geographically close to each other:** Breedon Humber is located east of Hope Scunthorpe nine miles away.
238. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own two out of a total of four sites (one Hope and one Breedon) in the [X] mile catchment area of Scunthorpe.
239. **High share of fixed RMX sites within the [X] mile catchment:** The Parties will own three out of a total of six sites (two Hope and one Breedon) in the [X] mile catchment area of Scunthorpe after picking up another Hope site and an additional Cemex site.
240. The Parties provided a heat map of customers served from Scunthorpe and Humber see Figures 13 and 14. This shows a [X].

**Figure 13: Map of the local area centred on Scunthorpe showing the location of Scunthorpe's customers**

[X]

Source: Hope

**Figure 14: Map of the local area centred on Humber showing the location of Humber's customers**

[X]

Source: Breedon

### ***Competitive constraints***

241. **Fascia Reduction:** In both the [X] and [X] mile catchment area there will be a reduction in fascia from four to three.
242. **Two competitors are geographically closer to Scunthorpe than Breedon:** A Cemex site (Scunthorpe 1) is located 0.1 miles from Scunthorpe and a Tarmac site (Scunthorpe 2) is less than two miles away.
243. **Three competitor sites (two additional fascia) are located at the edge of the [X] mile catchment area:**
- (a) Located next to another Hope site 14 miles away in Goole is an additional Cemex site. Just over [X] miles away on the fringe of the [X] mile catchment area at the north of Goole is also an independent RMX plant.
  - (b) 14 miles to the south at Gainsborough, [X], is a Hanson site.

### ***Third parties' views***

#### **244. Competitors:**

- (a) A competitor told the CMA that Breedon and Hope are strong competitors in this market. It said that [REDACTED].
- (b) Another competitor told the CMA that Breedon and Hope are major suppliers in this area and that [REDACTED]. It said that it is aware of small independent suppliers in this area but that they are a weak constraint. [REDACTED].
- (c) [REDACTED].

#### **245. Customers:**

- (a) One customer told the CMA that Breedon and Hope compete strongly in North Lincolnshire.

### ***Conclusion***

246. The CMA noted that the Parties' sites are geographically close to each other. The 'heat map' at figure 13 and 14 show that [REDACTED]. Post-Merger the principle constraint on the Parties in this area will be from the two competitors located in Scunthorpe. The responses from third parties suggest that other competitors are unlikely to be close enough to provide a significant constraint on the Parties in and around Scunthorpe. Given there will only be two competitors post-merger the CMA is concerned about the loss of competition with Breedon Humber for customers in Scunthorpe and between Scunthorpe and Humber.
247. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Scunthorpe.



## Immingham and Grimsby

248. Figure 15 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Immingham. Given the proximity of Immingham to Grimsby, a map centred on Grimsby would be very similar to that centred on Immingham and is not shown. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 15: Map of the local area centred on Immingham showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### **Concentration measures:**

249. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 7 below.

**Table 7: Shares of fixed RMX sites in the catchment areas of Immingham and Grimsby**

Catchment area distance from Immingham			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[35 – 45]%	5:4	[35 – 45]%	6:5
Catchment area distance from Grimsby			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[25 – 35]%	5:4	[35 – 45]%	5:4

Source: CMA analysis

### **Closeness of competition**

250. **The Parties are geographically very close to each other:** Grimsby 1 is located south of Immingham, 4.6 miles away, and Breedon Humber is located to the west, nine miles away. There is another Hope site located in Hull, 14 miles to the north.
251. **Moderate/High share of fixed RMX sites within the [X] mile catchment areas:** The Parties will own four out of a total of nine sites (two Hope and two Breedon) in the [X] mile catchment area centring on Immingham. Excluding

the sites located in Hull (north of the Humber estuary), which due to the time and expense of crossing the Humber Bridge are unlikely to supply the Immingham/Grimsby area, the Parties' combined share of sites decreases to three out of a total of seven sites (one Hope and two Breedon) in the [redacted] mile catchment area of Immingham. The Parties' combined share of sites will be two out of a total of six sites (one Hope and one Breedon) in the [redacted] mile catchment area centred on Grimsby because Breedon Humber is not included in this area.

252. **Moderate share within the [redacted] mile catchment areas:** The Parties will own four out of a total of ten sites (two Hope and two Breedon) in the [redacted] mile catchment area centred on Immingham due to picking up one additional competitor (one fascia). If centred on Grimsby, concentration is three out of a total of eight sites (one Hope and two Breedon) in the [redacted] mile catchment due to picking up Breedon Humber and a competitor site (Cemex Hull). However, if the sites located in Hull (north of the Humber estuary) are excluded, the Parties' combined share of sites will be three (one Hope and two Breedon) out of a total of seven sites within the [redacted] mile catchment area centred on either sites.
253. **Geographic characteristics of the areas are relevant when considering pre-Merger competition between Immingham and Grimsby and Hope Hull:** As shown in Figure 15, Hope Hull is located north of the Humber estuary. The CMA notes that there is a charge of between £10.80 and £12 for crossing the Humber Bridge.<sup>125</sup>

### ***Location of customers***

254. The Parties provided a heat map of customers served from Immingham, Grimsby and Humber see Figures 16 to 18. This shows [redacted].

**Figure 16: Map of the local area centred on Immingham showing the location of Immingham's customers**

[redacted]

Source: Hope

**Figure 17: Map of the local area centred on Grimsby showing the location of Grimsby's customers**

[redacted]

Source: Breedon

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<sup>125</sup> See [http://www.humberbridge.co.uk/toll\\_information/toll\\_charges.php](http://www.humberbridge.co.uk/toll_information/toll_charges.php)

**Figure 18: Map of the local area centred on Humber showing the location of Humber's customers**



Source: Breedon

### ***Competitive constraints on Immingham and Grimsby***

255. **Fascia Reduction:** In the [✂] mile catchment area there will be a reduction in fascia from five to four. In the [✂] mile catchment area there will be a reduction in fascia from six to five when centred on Immingham and from five to four when centred on Grimsby.
256. **Two competitors are geographically very close to Immingham:** Cemex and Tarmac both have a site in Immingham.
257. **Two competitors (one additional fascia) are geographically very close to Grimsby:** One Tarmac and one independent site are located in Grimsby.

### ***Countervailing factors***

258. Breedon submitted that Tarmac has a mothballed RMX plant located at Dairycoates (near Hull) which could be readily brought back into operation. Breedon also submitted that there is a quarry and two wharves where RMX plants could be readily installed, but did not supply any supporting evidence. The CMA contacted Tarmac. Tarmac told the CMA that it had previously operated a RMX plant on the Dairycoates site, but that this was shut down in 2009/09 and the plant has been removed. Tarmac believes it does not have a mothballed site in Dairycoates that could easily be brought back into operation. Tarmac also stated that, whilst it may have used third party wharves in the area from time to time to import aggregates or land marine aggregates, it does not itself own any wharves in the area. The CMA has not, therefore, included this site in its analysis.
259. Breedon also submitted that, given that there are a number of projects/contracts expected to commence in the next two years along the south Humber bank,<sup>126</sup> which are estimated to require up to 130,000 cubic metres of RMX, it expects a number of mobile plants to move to this local

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<sup>126</sup> Breedon mentioned future potential jobs linked to the following projects: (i) the construction of gravity bases for offshore wind turbines for Able UK (estimated to require up to 100,000 cubic metres of RMX), (ii) the construction of the Paull to Goxhill pipeline (estimated to require up to 15,000 cubic metres of RMX) and (iii) the construction of a sub-station at Stallingborough Power Station (estimated to require up to 15,000 cubic metres of RMX).

area to fulfil these contracts. Breedon provided copies of press reports in relation to this project.

### ***Third parties' views***

#### 260. Competitors

- (a) A competitor told the CMA that [REDACTED].
- (b) Another competitor said that [REDACTED].
- (c) Another competitor submitted that Breedon and Hope are major suppliers in this area but that [REDACTED]. It said that it was aware of small independent suppliers in this area which are a weak constraint.
- (d) [REDACTED].

#### 261. Customers

- (a) One customer told the CMA that Breedon and Hope compete in North Lincolnshire. It said that it would not accept a price increase and would switch to the competitor that is most competitive, possibly Tarmac, Cemex, Aggregate Industries or Hanson. This customer did not raise any concerns in relation to the Merger.
- (b) Another customer said that it is currently multi-sourcing from Breedon Grimsby and Copes (an independent RMX producer). It said that, in the event of a price increase, it would switch to Tarmac Grimsby and would continue to source from Copes. It did not raise any concerns about the Merger.

### ***Conclusion***

262. The CMA noted that the Parties' sites in Grimsby and Immingham are geographically very close to each other. The Breedon site at Humber is also close to Hope Immingham. The 'heat maps' at figures 16 to 18 show that [REDACTED]. Although the merged entity will face competition from three competitors also located in Immingham and Grimsby, comments from third parties have suggested that the independent competitor located in Grimsby is small and may be a weak competitor. While there are several competitor sites located around Hull, on the edge of both the Hope and Breedon plant's [REDACTED] mile catchment area, the CMA considers that [REDACTED]. As the CMA can only be confident that there will be two significant competitors post-merger it is concerned about the loss of competition between Breedon and Hope for customers around Immingham and Grimsby.

263. While Breedon has identified several large prospective construction projects in the Humber area, the CMA cannot say with a sufficient degree of certainty that these are likely to attract more RMX capacity in the area, or that they will be located such that they could provide a significant additional constraint. Furthermore, even if this were to occur, the CMA is not able to conclude that this would be timely or on a sufficient scale to prevent a realistic prospect of an SLC in this area as a result of the Merger.
264. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Immingham and the Breedon site at Grimsby.

## Humber

265. Figure 19 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Humber. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 19: Map of the local area centred on Humber showing fixed RMX sites within [X] and [X] miles**

[X]

Source Breedon

## Local analysis

### Concentration measures

266. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 8.

**Table 8: Shares of fixed RMX sites in the catchment areas of Humber**

Catchment area distance from Humber			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	4:3	[35 – 45]%	6:5

Source: CMA analysis

### Closeness of competition

267. **The Parties are geographically close to each other (9 miles):** Hope Scunthorpe is located to the west of Humber, 9 miles away, and Hope Immingham is located the same distance away but to the east of Humber. There are other Parties' sites within [X] miles of Humber: Breedon Grimsby 1 is located to the east 13 miles away; Hope Hull is located to the north of the local area, 11 miles away. Within [X] miles there is a Hope site located in Goole.
268. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own three out of the six sites (two Hope and one Breedon) in the [X] mile catchment area.
269. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties' share of sites decreases to five out of 12 sites (three Hope and two Breedon) in the [X] mile catchment area due to picking up four competitor

sites (but only two additional fascia) and two additional of the Parties' sites (Hope Hull and Breedon Grimsby). If the CMA were to exclude the sites located north of the Humber estuary, the Parties' combined shares would be four out of nine sites. If the CMA were to exclude the sites north of the Humber estuary, but include the Tarmac plant located in Grimsby, at the edge of the catchment area, the Parties' share of sites decreases to four out of 10 sites.

270. **Geographic characteristics of the areas may weaken pre-Merger competition between Humber and Hope Hull:** As shown in Figure 19, Hope Hull is located north of the Humber Estuary. The CMA noted that there is a charge between £10.80 and £12 for crossing the Humber Bridge.<sup>127</sup>

### ***Location of customers***

271. The Parties provided a heat map of customers served from Humber, see Figure 20, as well as a heat map of customers served from Scunthorpe (see Figure 13) and Immingham and Grimsby (see Figures 16 and 17). These maps show that [REDACTED].

**Figure 20: Map of the local area centred on Humber showing the location of Humber's customers**

[REDACTED]

Source: Breedon

### ***Competitive constraints***

272. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be a reduction in fascia from four to three. In the [REDACTED] mile catchment area there will be a reduction in fascia from six to five.
273. **Two competitors (two fascia) are located as far from Humber as Hope Scunthorpe:** Cemex and Tarmac both have one site each to the west of Humber, very close to Hope.
274. **Two competitors (no additional fascia) are located as far from Humber as Hope Immingham:** Cemex and Tarmac both have one site each to the east of Humber, very close to Hope.

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<sup>127</sup> See [http://www.humberbridge.co.uk/toll\\_information/toll\\_charges.php](http://www.humberbridge.co.uk/toll_information/toll_charges.php)

275. **Two competitors (one additional fascia) are located in Grimsby on the edge of the [REDACTED] mile catchment area:** One independent and one Tarmac site are located in Grimsby.

### ***Countervailing factors***

276. Breedon submitted that Tarmac has a mothballed RMX plant located at Dairycoates (near Hull) that could be readily brought back into operation. Breedon also told the CMA that there are a quarry and two wharves where RMX plants could be readily installed, but did not supply any supporting evidence. The CMA contacted Tarmac. Tarmac told the CMA that it had previously operated a RMX plant on the Dairycoates site, but that this was shut down in 2009/09 and the plant has been removed. Tarmac believes it does not have a mothballed site in Dairycoates that could easily be brought back into operation. Tarmac also stated that, whilst it may have used third party wharves in the area from time to time to import aggregates or land marine aggregates, it does not itself own any wharves in the area. The CMA has, therefore, not included this site in its analysis.
277. Breedon also submitted that, given that there are a number of projects/contracts expected to commence in the next 2 years along the south Humber bank,<sup>128</sup> which are estimated to require up to 130,000 cubic metres of RMX, it expects a number of mobile plants to move to this local area to fulfil these contracts. Breedon provided copies of press reports in relation to this project.

### ***Third parties' views***

278. No third party views were received in relation to this site. However, third party comments were received from competitors and customers in the Scunthorpe and Immingham / Grimsby areas (refer to comments at paragraphs 244 to 245 and 260 to 261).

### ***Conclusion***

279. The 'heat map' at figure 20 shows that [REDACTED]. The CMA considers that this map reveals that [REDACTED].

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<sup>128</sup> Breedon mentioned future potential jobs linked to the following projects: (i) the construction of gravity bases for offshore wind turbines for Able UK (estimated to require up to 100,000 cubic metres of RMX), (ii) the construction of the Paull to Goxhill pipeline (estimated to require up to 15,000 cubic metres of RMX) and (iii) the construction of a sub-station at Stallingborough Power Station (estimated to require up to 15,000 cubic metres of RMX).



280. As explained in the assessment of Hope Scunthorpe, post-Merger the principle constraint on the Parties in the Scunthorpe area (including the area between Scunthorpe and Humber) will come from the two competitors also located in Scunthorpe. Given there will only be two competitors post-merger the CMA is concerned about the loss of competition with Hope Scunthorpe for customers in Scunthorpe and between Scunthorpe and Humber.
281. As explained in the assessment of Hope Immingham and Breedon Grimsby, post-Merger the principle constraint on the Parties in the Immingham and Grimsby area (including the area between Humber and Immingham) will come from three competitors also located in Immingham and Grimsby. However, comments from third parties have suggested that the independent located in Grimsby is small and may be a weak competitor. Given that the CMA can only be confident that there will be two significant competitors post-merger in this area it is concerned about the loss of competition with Hope Immingham for customers in Immingham/Grimsby and between Immingham and Humber.
282. While Breedon has identified several large prospective construction projects in the Humber area, the CMA cannot say with a sufficient degree of certainty that these are likely to lead to more RMX capacity in the area, or that they will be located such that they could provide a significant additional constraint. Furthermore, even if this were to occur, the CMA is not able to conclude that this would be timely or on a sufficient scale to prevent a realistic prospect of an SLC in this area as a result of the Merger.
283. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Humber.

## BEAULY (Breedon Site), INVERNESS (Hope Site) and LONGMAN (Breedon Site)

### Beauly

284. Figure 21 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Beauly. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 21: Map of the Beauly local area and RMX sites within [X] and [X] miles**

[X]

Source: Breedon

### Local analysis

#### **Concentration measures:**

285. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 9 below.

**Table 9: Shares of fixed RMX sites in the catchment areas of Beauly.**

Catchment area distance from Beauly			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	1:1	[65 – 75]%	3:2

Source: CMA analysis

#### **Closeness of competition**

286. **The Parties are geographically close to each other:** Hope Inverness is located east of Beauly. There is another Breedon site, Longman, located 10 miles to the east just next to the Hope site.
287. **Very high share of fixed RMX sites within the [X] mile catchment area:** The Parties will own two out of a total of two sites (two Breedon) in the [X] mile catchment area of Beauly.
288. **Very high share of fixed RMX sites within the [X] mile catchment area:** The Parties share of sites will decrease to three out of a total of four sites (one Hope and two Breedon) in the [X] mile catchment area of Beauly (due to

picking up one Hope and an additional Breedon site) and one competitor site (an independent).

### ***Competitive constraints***

289. **Fascia Reduction:** In the [X] mile catchment area there will be no reduction in fascia; in the [X] mile catchment area there will be a reduction in fascia of three to two.
290. **One competitor is located in the local area:** As can be seen from the map at Figure 21, there is one independent (Leiths) located in Mid Lairs, 15 miles to the east of the local area.
291. **Volumetric trucks:** Breedon submitted that there are three competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

## Inverness, Longman

292. Figure 22 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Inverness. Given the proximity of Longman to Inverness, a map centred on Longman would be very similar to that centred on Inverness and is not shown. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 22: Map of the local area centred on Inverness showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### **Concentration measures:**

293. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 10 below.

**Table 10: Shares of fixed RMX sites in the catchment areas of Inverness and Longman**

Catchment area distance from Inverness			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[65 – 75]%	3:2	[65 – 75]%	3:2
Catchment area distance from Longman			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[65 – 75]%	3:2	[65 – 75]%	3:2

Source: CMA analysis

### **Closeness of competition**

294. **The Parties are geographically very close to each other:** Inverness is located less than a mile from Longman. There is another Breedon site, Beauly, located to the west, 10 miles away.
295. **Very high share of fixed RMX sites within the [X] mile catchment area:** The Parties will own three out of a total of four sites (one Hope and two Breedon) in the [X] mile catchment area centred on Longman. If centred on Hope Inverness, Breedon Beauly is [X] mile catchment area and the share of

sites falls to two out of a total of three sites (one Hope and one Breedon) in the [X] mile catchment area of Inverness.

296. **Very high share of fixed RMX sites within the [X] mile catchment area:** If centred on Inverness, concentration increases to three out of a total of four sites (one Hope and two Breedon) in the [X] mile catchment area due to picking up an additional Breedon site. The concentration centred on Longman is unchanged within the [X] mile catchment area.

### ***Competitive constraints***

297. **Fascia Reduction:** In both the [X] and [X] mile catchment area there will be a reduction in fascia from three to two when centred on either site.
298. **One competitor is located in the local area:** As can be seen from the map at Figure 22, there is one independent (Leiths) located in Mid Lairgs, six miles to the south east of the local area.
299. **Volumetric trucks:** Breedon submitted that there are three competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

## Beaully, Inverness and Longman

### *Third parties' views*

300. Competitors: An RMX competitor told the CMA that it is [REDACTED] in the Inverness area. It said that volumetric trucks are a constraint at the small volume end of the market. This competitor expressed concerns about the Merger saying that the merged firm would be dominant in the Inverness area.
301. Customers: One customer told the CMA that, in the event of a price increase, they would switch to Accumix or Pat Munro (from its plant in Invergordon), which are two independent producers in the area. This customer was not aware that there was a Hope site in the area.

### *Countervailing factors*

302. **Entry into RMX:** Breedon submitted that Pat Munro (Alness) Limited (**Pat Munro**), an independent RMX competitor, intends to open another RMX plant in Inverness, which will be supplied with aggregates from its Dalmagarry quarry. This would result in an additional fascia at [REDACTED] and [REDACTED] miles. However Breedon did not provide any supporting evidence to indicate the significance of this new constraint. The CMA contacted Pat Munro. Pat Munro told the CMA that it had considered an option to build a new RMX plant in Inverness, but that it rejected this plan as unworkable. It considered that the two Hope and Breedon sites in Inverness have the area tied up and that it would not be possible for a third new site to be successful. Pat Munro said they have no plans to build a RMX site in Inverness. The CMA has not, therefore, included this site in its analysis.
303. Breedon said that these plants are in rural Scotland where longer than usual haulage distances are more common. Breedon also said that the local geography in this area is particularly suitable for large-scale wind energy and hydroelectric projects, which can increase demand for RMX. Breedon submitted that these factors, as well as the ability to access borrow pits, makes this area an attractive location for new entry, in particular for operators of mobile plants.<sup>129</sup> However, Breedon did not provide evidence of current potential entry in RMX in this area.

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<sup>129</sup> Breedon submitted that they are aware of at least 6 instances in the period 2012-2015 in which competitors established mobile plants in the Inverness area, accounting for in excess of 50,000 cubic metres of sales of RMX to customers. These are: RJ McLeod (at Caorriemoille Wind Farm, Corriegarth Wind Farm, Beinneun Wind Farm and Dunmaglass Wind Farm), Lafarge Tarmac (at Nigg Energy Park) and Jones Brothers (at Loch Luichart Wind Farm).

304. Breedon said that there are 11 quarries (four operated by Tarmac and the rest by independents) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.

## **Conclusion**

### **Beaulieu**

305. The Parties' sites are geographically close to each other and that Hope Inverness is Beaulieu's closest competitor. Post-Merger there will be no competing RMX producers located within [X] miles of Beaulieu and only one competing RMX producer between [X] and [X] miles. As this competitor is located on the edge of the [X] mile catchment area the extent of the constraint it exerts on Beaulieu will be less than the Hope Inverness. Third parties also expressed a concern about competition in this local area. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.
306. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Beaulieu.

### **Inverness and Longman**

307. The CMA noted that the Parties' sites are geographically very close to each other and appear to be each other's closest competitor. Post-Merger the Merged entity will only face competition from one independent RMX producer within [X] miles, with no further competitors within [X] miles of either Longman or Inverness. The Parties will also have a very high share of RMX sites in the [X] mile catchment area (3 out of 4 sites). A competitor also noted the lack of competition in the local area. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.
308. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Longman and the Hope site at Inverness.

## LINCOLN (Hope Site)

309. Figure 23 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Lincoln. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 23: Map of the local area centred on Lincoln showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### ***Concentration measures:***

310. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 11 below.

**Table 11: Shares of fixed RMX sites in the catchment area of Lincoln**

Catchment area distance from Lincoln			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[25 – 35]%	3:3	[45 – 55]%	4:3

Source: CMA analysis

### ***Closeness of competition***

311. **The Parties are geographically close to each other:** Breedon Norton Bottoms is located 10.2 miles south west of Lincoln. In addition Breedon Sleaford is 16.1 miles to the south and Breedon Woodhall is 16.6 miles to the south east.
312. **Moderate share of fixed RMX sites within the [X] mile catchment area:** The Parties will own one out of a total of three sites (one Hope) in the [X] mile catchment area of Lincoln.
313. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties share of sites will increase to two out of a total of four sites (one Hope and one Breedon) in the [X] mile catchment area of Lincoln as it picks up the Breedon site at Norton Bottoms.



### ***Location of customers***

314. The Parties provided a heat map of customers served from Lincoln and Norton Bottoms, see Figures 24 and 25. [REDACTED].

**Figure 24: Map of the local area centred on Lincoln showing the location of Lincoln's customers**

[REDACTED]

Source: Hope

**Figure 25: Map of the local area centred on Norton Bottom showing the location of Norton Bottom's customers**

[REDACTED]

Source: Breedon

### ***Competitive constraints***

315. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be no reduction in fascia. In the [REDACTED] mile catchment area there will be a reduction in fascia from four to three.
316. **Two competitors are closer to Lincoln than Breedon (Norton Bottoms):** As can be seen from the map at Figure 23, there are two competing sites approximately five miles to the south of Lincoln in Whisby (one Cemex and one Independent).
317. **One competitor at the edge of the local area:** There is a Hanson site located to the north-west, [REDACTED] catchment area, 15 miles away from Lincoln.
318. **Volumetric trucks:** Breedon submitted that there are three competitors using volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Third parties' views***

319. Competitors:
- (a) A competitor submitted that Breedon and Hope compete closely in this area. It said that volumetric trucks are a constraint on fixed plants in this area.

- (b) Another competitor told the CMA that both independent RMX producers and volumetric trucks are a competitive constraint in this area.
- (c) Another competitor told the CMA that Breedon and Hope do not closely compete with one another due to the distance between their plants. This competitor said that it could compete on an equal footing with the Parties in this area. It also told the CMA that the constraint exercised by The Concrete Company, the independent in this local area, is weak. It also said that there is one volumetric truck active in the area.
- (d) [REDACTED].

320. Customers:

- (a) A customer told the CMA that it would not accept a price increase and would switch to Cemex. It said that the Parties compete closely with one another in this area.
- (b) Another customer said that it is not concerned about the Merger and would switch to other suppliers such as Tarmac, Hanson, Cemex and any independents in the local area.

**Conclusion**

321. The CMA noted that the Parties' RMX sites are geographically close to each other and that both Lincoln and Norton Bottom have a [REDACTED]. Post-Merger there will be only two competing RMX producers within [REDACTED] miles of Hope Lincoln, with no further competitors between [REDACTED] and [REDACTED] miles. Although a third competitor is located to the north, [REDACTED], this site does not appear well placed to compete for business in the south of the catchment area where the Parties are most likely to compete. A third party has also suggested that competition from the independent in the area may be weak.
322. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Lincoln.

## KINGTON (Hope Site), LEINTHALL (Breedon Site), WELLINGTON (Hope Site) and WOOFFERTON (Hope Site)

### Kington

323. Figure 26 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Kington. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 26: Map of the local area centred on Kington showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

### Local analysis

#### **Concentration measures:**

324. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 12 below.

**Table 12: Shares of fixed RMX sites in the catchment areas of Kington**

Catchment area distance from Kington			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	1:1	[65 – 75]%	3:2

Source: CMA analysis

#### **Closeness of competition**

325. **The Parties are geographically not very close to each other:** Breedon Leinthall is located to the east almost 13 miles away from Kington.
326. **High share of fixed RMX sites within the [X] mile catchment area:** Kington is the only site (one Hope) in the [X] mile catchment area.
327. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own two out of a total of three sites ((one Hope and one Breedon) in the [X] mile catchment area of Kington due to picking up one Cemex plant.

### ***Competitive constraints***

328. **Fascia Reduction:** In the [X] mile catchment area there will be no reduction in fascia; in the [X] mile catchment area there will be a reduction in fascia from three to two.
329. **One competitor in the local area:** As can be seen from the map at Figure 26, Cemex is the only competitor in the local area and is located to the south west, 13 miles away.

### ***Third parties' views***

330. Competitors: One competitor told the CMA that Breedon and Hope are major suppliers in the area.
331. Customers:
- (a) A customer told the CMA that it does not have concerns about the Merger in this local area.
  - (b) Another customer told the CMA that Breedon and Hope compete in this local area. This customer said that it uses both Breedon and Hope as suppliers, but also said that it did not have any concerns about the Merger as it believed there to be other local suppliers.

### ***Countervailing factors***

332. **Entry into RMX:** Breedon submitted that there are two quarries (operated by one independent) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.

### ***Conclusion***

333. Although Breedon Leinthall is geographically not very close to Hope Kington, it is still its closest competitor. Post-Merger there will be no competing RMX producers within [X] miles of Hope Kington and only one located between [X] and [X] miles. Furthermore this competitor is located to the west of the catchment area, where as competition between Breedon Leinthall and Hope Kington is likely to be strongest in the east of the catchment area. The CMA does not believe that the existence of an aggregates quarry, in and of itself, indicates that entry into RMX in the area is likely. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.

334. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Kington.

## Leinthall and Woofferton

335. Figures 27 and 28 show [X] and [X] mile catchment area maps of the local areas centred on the Breedon site at Leinthall and the Hope site at Woofferton respectively. These maps include the location of the Parties' and competitors' fixed RMX plants.

**Figure 27: Map of the local area centred on Leinthall showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 28: Map of the local area centred on Woofferton showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### *Concentration measures:*

336. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 13 below.

**Table 13: Shares of fixed RMX sites in the catchment areas of Leinthall and Woofferton**

Catchment area distance from Leinthall			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[65 – 75]%	3:2	[75 – 85]%	3:2
Catchment area distance from Woofferton			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[65 – 75]%	3:2	[65 – 75]%	3:2

Source: CMA analysis

### *Closeness of competition*

337. **The Parties are geographically very close to each other:** Woofferton is located to the east of Leinthall. There are also two other Hope sites in the

area: Hope Wellington located to the south, 12 miles away, and Hope Kington to the west, 12.5 miles away.

338. **High share of fixed RMX sites within the [X] mile catchment:** The Parties will own two out of a total of three sites (one Hope and one Breedon) in the [X] mile catchment area of both Leinthall and Woofferton.
339. **High share of fixed RMX sites within the [X] mile catchment:** The Parties' share of sites increases to four out of a total of five sites (three Hope and one Breedon) in the [X] mile catchment area centred on Leinthall, and three out of a total of four sites (two Hope and one Breedon) in the [X] mile catchment area centred on Woofferton.

### ***Competitive constraints***

340. **Fascia Reduction:** In both the [X] and [X] mile catchment area there will be a reduction in fascia from three to two.
341. **One competitor in the local area:** As can be seen from the maps at Figures 27 and 28, Cemex is the only competitor in the local area and is located north east, about seven miles away

### ***Third parties' views***

342. Competitor:
- (a) A competitor told the CMA that Breedon and Hope are major suppliers in this area.

### ***Countervailing factors***

343. **Entry into RMX:** Breedon submitted that there are two quarries (operated by one independent) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.
344. In addition, Breedon said that Tarmac has a mothballed RMX plant on a quarry at Ball Mill which could be brought back into production. Tarmac confirmed to the CMA that it does not have nor has it ever had an RMX plant at Ball Mill.

### ***Conclusion***

345. Breedon Leinthall and Hope Woofferton are geographically very close to each other. Each site is the other site's closest competitor. Post-Merger there will only be one competing RMX producer within [X] miles of either site, with no

further competitors located between [X] and [X] miles. The CMA does not consider that the existence of an aggregates quarry, in and of itself, indicates that entry into RMX in the area is likely. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.

346. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Leinthall and the Hope site at Woofferton.



## Wellington

347. Figure 29 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Wellington. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 29: map of the local area centred on Wellington showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### ***Concentration measures:***

348. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 13 below.

**Table 13: Shares of fixed RMX sites in the catchment area of Wellington**

Catchment area distance from Wellington			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	3:3	[65 – 75]%	4:3

Source: CMA analysis

### ***Closeness of competition***

349. **The Parties are geographically not very close to each other:** Breedon Leinthall is located to the north, 12 miles away. There are also two other Hope sites, Woofferton to the north located close to Breedon, and Hereford located to the south of the area.
350. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own two out of a total of four sites (two Hope) in the [X] mile catchment area of Wellington.
351. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties' share of sites increases to four out of a total of six sites (three Hope and one Breedon) in the [X] mile catchment area of Wellington due to picking up the Breedon site and one additional Hope site.

### ***Competitive constraints***

352. **Fascia Reduction:** In the [X] mile catchment area there will be no reduction in fascia; in the [X] mile catchment area there will be a reduction in fascia of four to three.
353. **No competitors between Breedon and Hope, or on the north side of the local area.**
354. **Two competitors (two fascia) located south of the area:** As can be seen from the map at Figure 29, Cemex and an independent, Radbournes Minimix, are located in Hereford, south of Hope Wellington, five miles and seven miles away respectively.

### ***Third parties' views***

355. Competitors:
- (a) A competitor told the CMA that Breedon and Hope are close competitors to one another in this local area and that [X]. This competitor also told the CMA that it is not aware of any independent operating in this area.
  - (b) Another competitor told the CMA that the Parties are close competitors to one another in this area.

### ***Countervailing factors***

356. **Entry into RMX:** Breedon submitted that there are two quarries (operated by one independent) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.

### ***Conclusion***

357. Breedon Leinthall is geographically not very close to Hope Wellington. However, post-Merger there will be only two competing RMX producers within [X] miles, with no further producers located between [X] and [X] miles. Furthermore, although these two competing sites are located closer to Wellington than Breedon Leinthall, they are both located to the south. The CMA's principle concern relates to the loss of competition in the northern part of the catchment area, where Breedon and Hope are likely to compete most closely and these two competitors will have to travel further to reach. Nevertheless, given there will be only two remaining competitors post-merger the CMA is also concerned about the loss competition in and around Wellington. In addition, comments from third parties suggested that the independent RMX producer in the area may not be a strong competitor. The

CMA does not consider that the existence of an aggregates quarry, in and of itself, indicates that entry into RMX in the area is likely. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.

358. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Wellington.

# LEATON (Breedon Site), SHREWSBURY (Hope Site), TELFORD HALESFIELD (Hope Site) and TELFORD TRENCH (Hope Site)

## Telford Halesfield

359. Figure 30 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Telford Halesfield. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 30: Map of the local area centred on Telford Halesfield showing fixed RMX sites within [X] and [X] miles**<sup>130,131</sup>

[X]

Source: Breedon

## Local analysis

### *Concentration measures:*

360. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 14 below.

**Table 14: Shares of fixed RMX sites in the catchment area of Telford Halesfield**

Catchment area distance from Telford Halesfield			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[65 – 75]%	3:2	[35 – 75]%	5:4

Source: CMA analysis

### *Closeness of competition*

361. **The Parties are geographically close to each other:** Breedon Leaton is located seven miles north west of Telford Halesfield. There is another Hope site, Telford Trench, located 4.5 miles to the north, and another Hope site, Four Ashes, located 13 miles to the east. There is also another Hope site, Shrewsbury, located 14 miles to the west (not included in the map above).

<sup>130</sup> Hanson have told the CMA that the site in Newport has been closed for some years.

<sup>131</sup> The map does not include a Hope site at Shrewsbury which is within the [X] mile catchment area.

362. **Very high share of fixed RMX sites within the [REDACTED] mile catchment area:**  
The Parties will own three out of a total of four sites (two Hope and one Breedon) in the [REDACTED] mile catchment area of Telford Halesfield.
363. **Very high share of fixed RMX sites within the [REDACTED] mile catchment area:**  
The Parties' share of sites will fall to five out of a total of eight sites (four Hope and one Breedon) in the [REDACTED] mile catchment area of Telford Halesfield due to picking up two additional Hope sites (Four Ashes and Shrewsbury) and two competitors.

### ***Location of customers***

364. The Parties provided a heat map of customers served from Telford Halesfield, Telford trench and Leaton see Figures 31, 33 and 37. The map at Figure 31 show [REDACTED].

**Figure 31: Map of the local area centred on Telford Halesfield showing the location of Telford Halesfield's customers**

[REDACTED]

Source: Hope

### ***Competitive constraints***

365. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be a reduction in fascia from three to two; in the [REDACTED] mile catchment area there will be a reduction in fascia from five to four.

### **Telford Trench**

366. Figure 32 shows the [REDACTED] and [REDACTED] mile catchment area map of the local area centred on the Hope site at Telford Trench. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 32: Map of the local area centred on Telford Trench showing fixed RMX sites within [X] and [X] miles**<sup>132,133</sup>

[X]

Source: Breedon

## Local analysis

### **Concentration measures:**

367. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 15 below.

**Table 15: Shares of fixed RMX sites in the catchment areas of Telford Trench**

Catchment area distance from Telford Trench			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[55 – 65]%	4:3	[45 – 55]%	5:4

Source: CMA analysis

### **Closeness of competition**

368. **The Parties are geographically very close to each other:** Breedon Leaton is located four miles to the west of Hope Telford Trench. There are two other Hope plants, Telford Halesfield, 4.5 miles to the south, and Shrewsbury, 12 miles to the west.
369. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own three out of a total of five sites (two Hope and one Breedon) in the [X] mile catchment area of Telford Trench.
370. **Moderate share of fixed RMX sites within the [X] mile catchment area:** The Parties' share of sites decreases to four out of a total of eight sites (three Hope and one Breedon) in the [X] mile catchment area of Telford Trench due to picking up one Hope plant and two additional competitor sites (one additional fascia).

<sup>132</sup> Hanson have told the CMA that the site in Newport has been closed for some years.

<sup>133</sup> There are two sites at Market Drayton which overlap on the map.

### ***Location of customers***

371. The Parties provided a heat map of customers served from Telford Halesfield, Telford Trench and Leaton, see Figures 31, 33 and 37. The map at Figure 33 show [REDACTED].

**Figure 33: Map of the local area centred on Telford Trench showing the location of Telford Trench's customers**

[REDACTED]

Source: Hope

### ***Competitive constraints***

372. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be a reduction in fascia from four to three; in the [REDACTED] mile catchment area there will be a reduction in fascia of six to five.
373. **One competitor is geographically closer to Telford Trench than Breedon:** As can be seen from the map at Figure 32, Cemex Oakengates is located very close to Hope Telford Trench.
374. Breedon submitted that two companies (Mick George and Tudor Griffiths Concrete) had plans to open RMX sites in the area. The CMA contacted both businesses. One told the CMA they had no plans to open an RMX site in the area, the other told the CMA that they did plan to open a new site, but that plans were at an early stage and it did not anticipate opening any new plant for at least two years. The CMA considers that entry by either of these businesses into this area is not likely to be timely and has, therefore, not included these sites in its assessment.
375. **Volumetric trucks:** Breedon submitted that there are five competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

## Shrewsbury

376. Figure 34 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Shrewsbury. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 34: Map of the local area centred on Shrewsbury showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

## Local analysis

### ***Concentration measures:***

377. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 16 below.

**Table 16: Shares of fixed RMX sites in the catchment area of Shrewsbury**

Catchment area distance from Shrewsbury			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	4:3	[55 – 65]%	5:4

Source: CMA analysis

### ***Closeness of competition***

378. **The Parties are geographically close to each other:** Breedon Leaton is located eight miles east of Shrewsbury.

379. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own two out of a total of four sites (one Hope and one Breedon) in the [X] mile catchment area of Shrewsbury.

380. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties' share of sites will increase to four out of a total of seven sites (three Hope and one Breedon) in the [X] mile catchment area of Shrewsbury due to picking up two additional Hope sites and one competitor site.



### ***Competitive constraints***

381. **Fascia Reduction:** In the [X] mile catchment area there will be a reduction in fascia from four to three; in the [X] mile catchment area there will be a reduction in fascia from five to four.
382. **One competitor is located closer to Hope Shrewsbury than Breedon:** As can be seen from the map at Figure 34, Hanson has a site located less than two miles away from the focal site.
383. **One competitor is located as far from Hope Shrewsbury as the Breedon site:** As can be seen from the map at Figure 34, an independent competitor is located to the north of the focal site, seven miles away.

### ***Countervailing factors***

384. **Entry into RMX:** Breedon submitted that two companies (Mick George and Tudor Griffiths Concrete) had plans to open RMX sites in the area. The CMA contacted both businesses. One told the CMA they had no plans to open an RMX site in the area, the other told the CMA that they did plan to open a new site, but that plans were at an early stage and it did not anticipate opening any new plant for at least two years. The CMA considers that entry by either of these businesses not this area is not likely to be timely and has, therefore, not included these sites in its assessment.
385. **Volumetric trucks:** Breedon submitted that there are five competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Location of customers***

386. The Parties provided a heat map of customers served from Shrewsbury and Leaton, see Figures 35 and 37. The map at Figure 35 show that [X].

**Figure 35: Map of the local area centred on Shrewsbury showing the location of Shrewsbury's customers**

[X]

Source: Hope

## Leaton

387. Figure 36 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Leaton. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 36: Map of the local area centred on Leaton showing fixed RMX sites within [X] and [X] miles**<sup>134</sup>

[X]

Source: Breedon

## Local analysis

### *Concentration measures:*

388. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 17 below.

**Table 17: Shares of fixed RMX sites in the catchment area of Leaton**

Catchment area distance from Leaton			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[55 – 65]%	5:4	[55 – 65]%	5:4

Source: CMA analysis

### *Closeness of competition*

389. **The Parties are geographically very close to each other:** Leaton is located four miles from Hope Telford Trench. A further Hope site is located at Telford Halesfield (seven miles away) and another at Shrewsbury (eight miles away).

390. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own four out of a total of seven sites (three Hope and one Breedon) in the [X] mile catchment area of Leaton.

391. **High share of fixed RMX sites within the [X] mile catchment area:** The share of sites does not change in the [X] mile catchment area.

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<sup>134</sup> Hanson have told the CMA that the site in Newport has been closed for some years.

### ***Competitive constraints***

392. **Fascia Reduction:** In both the [X] and [X] mile catchment area there will be a reduction in fascia from five to four.
393. **Three competitors (three fascia) are located a similar distance from Leaton as the Hope sites:** As can be seen from the map at Figure 36, there are three competing sites within nine miles of Leaton. To the east is a Hanson site at Newport (nine miles), and a Cemex site at Oakengate (five miles). To the west is another Hanson site at Shrewsbury and an independent at Shawbury.

### ***Countervailing factors***

394. Breedon submitted that two companies (Mick George and Tudor Griffiths Concrete) had plans to open RMX sites in the area. The CMA contacted both businesses. One told the CMA they had no plans to open an RMX site in the area, the other told the CMA that they did plan to open a new site, but that plans were at an early stage and it did not anticipate opening any new plant for at least two years. The CMA considers that entry by either of these businesses not this area is not likely to be timely and has, therefore, not included these sites in its assessment.
395. **Volumetric trucks:** Breedon submitted that there are five competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Location of customers***

396. The Parties provided a heat map of customers served from Telford Halesfield, Telford Trench, Shrewsbury and Leaton, see Figures 31, 33, 35 and 37. The map of Leaton reveals [X].

**Figure 37: Map of the local area centred on Leaton showing the location of Leaton's customers**

[X]

Source: Breedon

## Leaton, Shrewsbury, Telford Halesfield and Telford Trench

### *Third parties' views*

#### 397. Competitors:

- (a) A competitor told the CMA that Breedon and Hope are close competitors in the area and that Tudor Griffith is the only significant independent competitor in the area. This competitor said that there are a significant number of volumetric trucks which operate in the area and other small independents, which together represent at least 10% of the supply. [REDACTED] It said that the merged entity will gain a strong position in the Telford area as it is difficult for other plants to reach this area.
- (b) Another competitor told the CMA that Breedon and Hope are major suppliers in the area. This competitor viewed Shropshire Mini Mix (the independent which operates the Shawbury site) as a weak constraint due to its location. This competitor said that it is not aware of any volumetric trucks operating in this area.
- (c) One of the competitors [REDACTED] told the CMA that they do not operate in Shrewsbury due to the distance.
- (d) [REDACTED].

#### 398. Customers:

- (a) Two customers told the CMA that they had no concerns about the Merger
- (b) Another customer told the CMA that Breedon and Hope are not close competitors in the area and that Breedon does not have much density of plant in this area. The density of RMX plants in the West Midlands means that this customer can be serviced by either Hope, Cemex or Hanson. This customer told the CMA that these are the main competitors for RMX in the area.

### *Countervailing factors*

#### 399. Entry into RMX:

- (a) Breedon submitted that a new independent is planning to open an RMX site on a recently-acquired aggregates quarry on the Aqualate estate in Newport. It said that, in addition, another independent is seeking to open RMX sites in Shrewsbury and Telford. Breedon said that all three sites would be within [REDACTED] miles of its site in Leaton. The CMA contacted both

businesses. One told the CMA they had no plans to open an RMX site in the area, the other told the CMA that they did plan to open a new site, but that plans were at an early stage and it did not anticipate opening any new plant for at least two years. The CMA considers that entry by either of these businesses not this area is not likely to be timely and has, therefore, not included these sites in its assessment.

- (b) Breedon also told the CMA that there are four quarries (one operated by Aggregate Industries, one by Hanson and two operated by an independent) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.

## **Conclusions**

### **Telford Halesfield**

400. Hope Telford Halesfield and Breedon Leaton are geographically close to each other and the heat maps show [X]. Post-Merger there will be only one competing RMX producer within [X] miles of Hope Halesfield and one further producer between [X] and [X] miles. The Parties will also have a high share of sites in this area (three out of four sites in the [X] mile catchment area). A third party has noted that sites in Shrewsbury are unlikely to be significant competitors for business in Telford; and a competitor has submitted that the independent located within [X] miles is a weak constraint in this area. The CMA is therefore particularly concerned about the loss of competition from Leaton on Telford Halesfield given the only other source of significant competition in Telford would appear to be the one other RMX producer also in Telford. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.
401. The CMA, therefore, considers that there is a realistic prospect of an SLC as a result of the Merger in relation to the Hope site at Halesfield.

### **Telford Trench**

402. The CMA noted that Telford Trench and Breedon Leaton are geographically very close to each other and both serve customers in and around Telford. Post-merger there will only be two competing RMX producer within [X] miles of Hope Telford Trench and one further producer located between [X] and [X] miles. The Parties will also have a high share of sites in this area (three out of four sites in the [X] mile catchment area). A third party has noted that sites in Shrewsbury are unlikely to provide significant competition for business in Telford. A competitor has also submitted that the independent located

within 10 miles is a weak constraint in this area. The CMA is therefore particularly concerned about the loss of the constraint on Telford Trench deriving from Breedon Leaton, given the only other source of significant competition in Telford would appear to be the one other RMX producer also in Telford. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely to prevent a realistic prospect of an SLC in this area as a result of the Merger.

403. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC as a result of the Merger in relation to the supply of RMX at the Hope site at Telford Trench.

## **Shrewsbury**

404. The CMA noted that Shrewsbury and Breedon Leaton are geographically close to each other and both serve customers in and around Shrewsbury. The Parties will have a high share of sites in this area (four out of seven sites in the [X] mile catchment). Post-Merger there will be only two competing RMX producers within [X] miles of Hope Shrewsbury and one further producer between [X] and [X] miles (located in Telford). However, a third party has noted that sites in Telford are unlikely to provide significant competition for business in Shrewsbury. The CMA is therefore particularly concerned about the loss of competition from Breedon Leaton on Shrewsbury, given the only other sources of significant competition in Shrewsbury would appear to be the one other RMX producer in Shrewsbury and the independent producer to the north of Shrewsbury. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely to prevent a realistic prospect of an SLC in this area as a result of the Merger.
405. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC as a result of the Merger in relation to the supply of RMX at the Hope site at Shrewsbury.

## **Leaton**

406. The CMA noted that Leaton is geographically very close to Hope Telford Trench and close to Telford Halesfield, all three of these sites serve customers in and around Telford. The CMA also noted that Leaton is close to Hope Shrewsbury and that both sites serve customers in and around Shrewsbury. Post-Merger there will be three competing RMX producers within [X] miles of Leaton and no additional producers between [X] and [X] miles. The Parties will also have a high share of sites in this area (four out of seven sites in the [X] mile catchment). As Leaton lies between Shrewsbury and

Telford it competes with the Hope sites in both locations. However, a third party has submitted that RMX sites in Shrewsbury are unlikely to compete strongly for business in Telford, while a different third party has submitted that RMX sites in Telford are unlikely to compete strongly for business in Shrewsbury. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely to prevent a realistic prospect of an SLC in this area as a result of the Merger.

407. The CMA is therefore concerned about the loss of competition from Hope Shrewsbury on Leaton given there are only two other sources of significant competition in Shrewsbury. The CMA is also concerned about the loss of competition from the two Hope sites in Telford on Breedon Leaton, given there is only one other source of significant competition in Telford.
408. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Leaton.

# WOODHALL SPA (Breedon Site), SLEAFORD (Breedon Site), SPALDING (Hope Site), LONG SUTTON (Breedon), BOSTON 1 (Breedon Site), BOSTON 3 (Hope Site)

## Woodhall Spa

409. Figure 38 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Woodhall Spa. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 38: Map of the local area centred on Woodhall Spa showing fixed RMX sites within [X] and [X] miles**<sup>135</sup>

[X]

Source: Breedon

## Local analysis

### ***Concentration measures:***

410. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 18 below.

**Table 18: Shares of fixed RMX sites in the catchment area of Woodhall Spa**

Catchment area distance from Woodhall Spa			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	1:1	[65 – 75]%	4:3

Source: CMA analysis

### ***Closeness of competition***

411. **The Parties are geographically not very close to each other:** Hope Boston is located to the south east, 12 miles away from the focal site.

412. **High share of fixed RMX sites within the [X] mile catchment area:** Woodhall Spa is the only site (one Breedon) in the [X] mile catchment area.

<sup>135</sup> A new site, operated by Mick George, has opened in Boston. This means that the number of plants in the [X] mile catchment area is six sites.



413. **High share of fixed RMX sites within the [REDACTED] mile catchment area:** The Parties will own four out of a total of six sites (one Hope and three Breedon) in the [REDACTED] mile catchment area of Woodhall Spa due to picking up two additional Breedon sites, one Hope site and two competitor sites.

### ***Location of customers***

414. The Parties provided a heat map of customers served from Woodhall Spa and Boston (Hope), see Figures 39 and 40. [REDACTED].

**Figure 39: Map of the local area centred on Woodhall Spa showing the location of Woodhall Spa's customers**

[REDACTED]

Source: Breedon

**Figure 40: Map of the local area centred on Boston (Hope) showing the location of Boston (Hope)'s customers**

[REDACTED]

Source: Hope

### ***Competitive constraints***

415. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be no reduction in fascia; in the [REDACTED] mile catchment area there will be a reduction in fascia from four to three.
416. **Two competitors are located as far from Woodhall Spa as Hope:** As can be seen from the map at Figure 38, Cemex is located in Boston, at the same distance as Hope, 12 miles away. The CMA was also made aware that during the course of the inquiry a new site had opened in Boston, operated by the independent operator Mick George.
417. **Mobile RMX plants:** Breedon submitted that a mobile plant was at RAF Weddington (for an estimated supply of 25,000 RMX cubic metres) in early 2015 (based on a quotation given by Breedon for the same job). However this mobile site has been moved elsewhere. The CMA has not, therefore, included this site in its analysis.
418. **Volumetric trucks:** Breedon said that there are three competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Third parties' views***

419. Competitors: A competitor told the CMA that Breedon and Hope are major suppliers in the area. This competitor said that, due to distance between its plant and Woodhall Spa, it infrequently supplied to this area. It also said that an independent, HW Smith, operates in the area and is a weak constraint.
420. Customers: Two customers told the CMA that they had no concerns with the Merger in this area.

### ***Conclusion***

421. The CMA noted that Breedon Woodhall Spa and Hope Boston are geographically not very close to each other. However, although the Parties are some distance apart, the Hope plant at Boston is one of the three closest competitors faced by Breedon Woodhall Spa, where one of those competitors is a new operator in the area, which, as noted in the assessment of competition faced by the Parties' Boston plants, was considered a moderate constraint by a third party. The 'heat map' at figure 39 and 40 also reveals [X]. Given that post-Merger there will be no competing RMX operators within [X] miles of Breedon Woodhall Spa and only two between [X] and [X] miles the CMA has concerns about the loss of competition in the area around Woodhall Spa.
422. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Woodhall Spa.

## Sleaford

423. Figure 41 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Sleaford. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 41: Map of the local area centred on Sleaford showing fixed RMX sites within [X] and [X] miles**

[X]

Source Breedon

## Local analysis

### Concentration measures

424. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 19 below.

**Table 19: Shares of fixed RMX sites in the catchment area of Sleaford.**

Catchment area distance from Sleaford			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	1:1	[65 – 75]%	4:3

Source: CMA analysis

### Closeness of competition

425. **The Parties are geographically not very close to each other:** Hope Grantham, which has been recently mothballed, is located 12 miles to the south west. In the 14 mile catchment area there are three other Breedon sites: Breedon Woodhall Spa, 13 miles to the north east, Breedon Boston, 13 miles to the east, and Breedon Grantham, 12 miles to the west.
426. **High share of fixed RMX sites within the [X] mile catchment area:** Sleaford is the only site (one Breedon) within the [X] mile catchment area.
427. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own five out of a total of seven sites (one Hope and four Breedon) in the [X] mile catchment area of Sleaford.

### ***Location of customers***

428. The Parties provided a heat map of customers served from Sleaford, see Figure 42. [X], the largest concentration of customers is in and around the Sleaford area.

**Figure 42: Map of the local area centred on Sleaford showing the location of Sleaford's customers**

[X]

Source: Breedon

### ***Competitive constraints***

429. **Fascia Reduction:** In the [X] catchment area there will be no reduction in fascia. In the [X] mile catchment area there will be a reduction in fascia from four to three.
430. **Two competitors (two fascia) are located as far from Sleaford as Hope:** As can be seen from the map at Figure 41, Cemex and Tarmac have one site each in Grantham, about 11 miles away. They are likely to exercise a similar constraint on Sleaford as the Hope site.
431. **Mobile RMX plants:** Breedon submitted that, a mobile plant was at RAF Weddington (for an estimated supply of 25,000 RMX cubic metres) in early 2015 (based on a quotation given by Breedon for the same job). However this mobile site has been moved elsewhere. The CMA has not, therefore, included this site in its analysis.
432. **Volumetric trucks:** Breedon submitted that there are three competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

### ***Third parties' views***

433. Competitors:
- (a) A competitor told the CMA that Breedon and Hope are major suppliers in the area. This competitor said that, due to distance between its plant and Sleaford, it infrequently supplied to this area. It also said that an independent, HW Smith, operates in the area and is a weak constraint.
  - (b) Another competitor told the CMA that volumetric trucks are a constraint.

(c) [REDACTED].

434. Customers: One customer who responded to the CMA's questionnaire told the CMA that they had no concerns with the Merger.

**Conclusion:**

435. The CMA noted that Sleaford and Hope Grantham are geographically not very close to each other. However, although the Parties are some distance apart, the Hope plant at Grantham is one of the closest competitors faced by Breedon Sleaford. The 'heat map' at figure 42 shows [REDACTED]. Post-Merger there will be no competing RMX operators within [REDACTED] miles of Breedon Sleaford and only two between [REDACTED] and [REDACTED] miles. Given the lack of any closer competitors in the Sleaford area the CMA is concerned about the loss of competition from one of Breedon Sleaford's three geographically closest competitors.
436. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Breedon site at Sleaford.

## Spalding

437. Figure 43 shows the [X] and [X] mile catchment area map of the local area centred on the Hope site at Spalding. This map includes the location of the Parties' and competitors' fixed RMX plants. Figure 44 shows a [X] mile catchment area map centred on Spalding to present the full range of sites around Boston and Peterborough many of which are on the edge of the 14 mile catchment area.

**Figure 43: Map of the local area centred on Spalding showing fixed RMX sites within [X] and [X] miles**

[X]

Source: Breedon

**Figure 44: Map of the local area centred on Spalding showing fixed RMX sites within [X] miles.**

[X]

Source: Breedon

## Local analysis

### ***Concentration measures:***

438. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 20 below.

**Table 20: Shares of fixed RMX sites in the catchment areas of Spalding**

Catchment area distance from Spalding			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	1:1	[65 – 75]%	4:3

Source: CMA analysis

### ***Closeness of competition***

439. **The Parties are geographically not very close to each other:** Breedon has four sites in the local area: Boston, located 14 miles to the north, Long Sutton, located 11 miles to the east, Peterborough, 12 miles to the south, and West Deeping, 11 miles to the south west.

440. **High share within the [X] mile catchment:** Spalding is the only site (one Hope) within the [X] mile catchment area.
441. **High share within the [X] mile catchment:** the parties share of sites decreases to six out of a total of eight sites (two Hope and four Breedon) in the [X] mile catchment area of Spalding due to picking up four Breedon sites, one additional Hope site and two competitor sites.

### ***Competitive constraints***

442. **Fascia Reduction:** In the 10 catchment area there will be no reduction in fascia; In the 14 mile catchment area there will be a reduction in fascia from four to three.
443. **Four competitors (four fascia) are located to the south of the local area:** As can be seen from the map at Figure 43, Aggregate Industries and an independent, The Concrete Company, are located within [X] miles. In addition, just to the south of Peterborough, outside of the [X] mile catchment area, is one Hanson site and one Cemex site.
444. **Two competitors (one additional fascia) are located to the north of the local area:** As can be seen from the map at Figure 43, there is a Cemex site in Boston, which is just over [X] miles away but in close proximity to Breedon Boston. The CMA was also made aware that during the course of the inquiry a new site had opened in Boston, operated by the independent operator Mick George.
445. **No competitors are located close to the other Breedon sites in the local area.**

### ***Third parties' views***

446. Competitors:
- (a) A competitor told the CMA that Breedon and Hope compete closely in the area. It also said that volumetric trucks are a competitive constraint in the area.
  - (b) Another competitor told the CMA that Gem Mix and Mick George are independent producers which exercise a moderate constraint in this area.
  - (c) [X].
447. Customers:

- (a) A customer told the CMA that it would not accept a price increase and that it would switch to Cemex (there is a Cemex site near Breedon Boston, just outside this local area).
- (b) Another customer told the CMA that it currently uses Breedon but would not accept a price increase as it would retender its work and choose the cheapest supplier. This customer considered Tarmac, DK Concrete and Maxi RMC to be the Parties' main competitors. Nevertheless, this customer expressed concerns about the Merger.

### ***Countervailing factors***

- 448. **Entry into RMX:** Breedon submitted that there are two quarries (one operated by Tarmac and the other by Hanson) where RMX plants could be readily installed. The CMA did not receive any confirmation of the validity of the submission.
- 449. Breedon also submitted that Mick George Limited is planning to open an RMX plant in Peterborough in December 2015. The CMA has confirmed that this site is now operational and has included it in its analysis.

### ***Conclusion***

- 450. The CMA noted that Spalding is geographically not very close to any of the four Breedon sites within the [X] mile catchment area. However, although the Parties are some distance apart, these four plants are amongst the closest competitors faced by Spalding. The Parties also have a high share of sites in this area (six out of eight sites in the [X] mile catchment). Post-Merger there will be no competing RMX operators within [X] miles of Hope Spalding and only two between [X] and [X] miles. As these two competitors are both located to the south, near Peterborough (as are several other sites [X] mile catchment), the CMA has particular concerns about the loss of competition brought about by the Merger in the north half of the catchment area.
- 451. The CMA does not consider that the existence of an aggregates quarry, in and of itself, indicates that entry into RMX in the area is likely. The CMA has not identified any evidence to suggest that entry or expansion would be sufficient, timely or likely.
- 452. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at the Hope site at Spalding.





## Long Sutton

453. Figure 45 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Long Sutton. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 45: Map of the local area centred on Long Sutton showing fixed RMX sites within [X] and [X] miles** <sup>136</sup>

[X]

Source: Breedon

## Local analysis

### *Concentration measures:*

454. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 21 below.

**Table 21: Shares of fixed RMX sites in the catchment area of Long Sutton**

Catchment area distance from Long Sutton			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[95 – 100]%	2:1	[45 – 55]%	6:5

Source: CMA analysis

### *Closeness of competition*

455. **The Parties are geographically close to each other:** Hope Wisbech is located less than 10 miles to the south, Hope Spalding is located to the west 11 miles away and Hope Boston is 13 miles to the north. There is also another Breedon site, Boston, located 14 miles to the north and King's Lynn 13 miles to the south east.

456. **High share of fixed RMX sites within the [X] mile catchment area:** The Parties will own both of the sites (one Hope and one Breedon) in the [X] mile catchment area of Long Sutton.

<sup>136</sup> A new site, operated by Mick George, has opened in Boston. This means that the number of plants in the [X] mile catchment area is 12 sites.

457. **High share of fixed RMX sites within the [REDACTED] mile catchment area:** The Parties will own six out of a total of 12 sites (three Hope and three Breedon) in the [REDACTED] mile catchment area of Long Sutton due to picking up four of the Parties' sites and some competitors.

### ***Location of customers***

458. The Parties provided a heat map of customers served from Long Sutton and Spalding, see Figures 46 and 47. The map of Spalding [REDACTED]. The map of Long Sutton shows [REDACTED].

**Figure 46 Map of the local area centred on Long Sutton showing the location of Long Sutton's customers**

[REDACTED]

Source: Breedon

**Figure 47: Map of the local area centred on Spalding showing the location of Spalding's customers**

[REDACTED]

Source: Hope

### ***Competitive constraints***

459. **Fascia Reduction:** In the [REDACTED] mile catchment area there will be a reduction in fascia from two to one; in the [REDACTED] mile catchment area there will be a reduction in fascia from six to five.
460. **One competitor is located as far as Hope Wisbech:** As can be seen from the map at Figure 45, Cemex has a site located very close to Hope Wisbech.
461. **Two competitors (one additional fascia) is located as far as Hope Boston:** As can be seen from the map at Figure 45, Cemex also has a site located very close to Hope Boston. The CMA was also made aware that during the course of the inquiry a new site had opened in Boston, operated by the independent operator Mick George. The CMA has confirmed that this site is now operational and has included it in its analysis.

### ***Third parties' views***

462. Competitors:
- (a) A competitor told the CMA that Breedon and Hope compete closely in the area. This competitor also said that volumetric trucks are a competitive constraint in the area.

- (b) Another competitor told the CMA that Gem Mix and Mick George are independent producers which exercise a moderate constraint in this area.
- (c) Another competitor told the CMA that it did not consider that it competed with Breedon Long Sutton due to distance.
- (d) [REDACTED].

463. Customers:

- (a) A customer told the CMA that it would not accept a price increase and that it would switch to Cemex.
- (b) Another customer told the CMA that it currently uses Breedon but would not accept a price increase as it would retender its work and choose the cheapest supplier. This customer considered Tarmac, DK Concrete and Maxi RMC to be the Parties' main competitors. Nevertheless, this customer expressed concerns about the Merger.

**Conclusion**

464. The CMA noted that Breedon Long Sutton is geographically closest to Hope Wisbech. However, the 'heat maps' at figure 46 and 47, along with the heat map for Hope Boston at figure 50 below, suggests [REDACTED]. Although the Parties' sites are some distance apart, these sites are amongst the closest competitors faced by Long Sutton in this area. Post-Merger there will be no competing RMX sites within [REDACTED] miles of Long Sutton and five competing sites (three fascia) between [REDACTED] and [REDACTED] miles. However, of these five competing sites four are located around Wisbech and Kings Lynn in the south west of the catchment area. In the north and west of the catchment area where Breedon Long Sutton competes with Hope Spalding and Hope Boston there would appear to be only two competitors, both located in Boston, capable of providing some constraint post-Merger.
465. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC as a result of the Merger in relation to the supply of RMX at the Breedon site at Long Sutton.

## Boston (Breedon) and Boston (Hope)

466. Figure 48 shows the [X] and [X] mile catchment area map of the local area centred on the Breedon site at Boston. Given the proximity of Breedon's Boston site to Hope's Boston site, a map centred on Hope's Boston site would be very similar to that shown. This map includes the location of the Parties' and competitors' fixed RMX plants.

**Figure 48: Map of the local area centred on Boston 1 showing fixed RMX sites within [X] and [X] miles** <sup>137</sup>

[X]

Source Breedon

## Local analysis

### Concentration measures

467. The CMA calculated shares of fixed RMX sites and fascia count of RMX suppliers based on information provided by Breedon. The results are set out in Table 22 below.

**Table 22: Shares of fixed RMX sites in the catchment areas of Boston 1 and Boston 3.**

Catchment area distance from Boston 1			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	4:3	[65 – 75]%	4:3
Catchment area distance from Boston 3			
[X] Miles		[X] Miles	
Share of fixed RMX sites	Fascia	Share of fixed RMX sites	Fascia
[45 – 55]%	4:3	[65 – 67]%	4:3

Source: Breedon

### Closeness of competition

468. **The Parties are geographically very close to each other:** Breedon and Hope are located very close to each other, 2.6 miles away. There are other Parties' sites in the area: Breedon Woodhall Spa, 12 miles away to the north,

<sup>137</sup> A new site, operated by Mick George, has opened in Boston. This means that the number of plants in the [X] mile catchment area is four sites and 8 sites in the [X] mile catchment area.

Breedon Sleaford, 13 miles away to the west, Hope Spalding, 14 miles away to the south, and Breedon Long Sutton, about 13 miles to the south east.

469. **Very high share of fixed RMX sites within the [X] mile catchment areas:**  
The Parties will own two out of a total of four sites in the [X] mile catchment area of both Boston sites (one Hope and one Breedon) in the [X] mile catchment areas centred on either of the Parties' sites.
470. **Very high share of fixed RMX sites within the [X] mile catchment areas:**  
The Parties' share of sites increases to four out of six sites (one Hope and three Breedon) in the [X] mile catchment centred on Hope Boston due to picking up two additional Breedon sites. The Parties' share of sites increases to six out of eight sites (two Hope and four Breedon) when centring on Breedon Boston due to picking up three additional Breedon sites and one additional Hope site.

### ***Location of customers***

471. The Parties provided a heat map of customers served from Boston (Breedon) and Boston (Hope), see Figures 49 and 50. These maps show the volume of sales from both sites are concentrated in and around the Boston area.

**Figure 49: Map of the local area centred on Boston (Breedon) showing the location of Boston (Breedon)'s customers**

[X]

Source: Breedon

**Figure 50: Map of the local area centred on Boston (Hope) showing the location of Boston (Hope)'s customers**

[X]

Source: Hope

### ***Competitive constraints***

472. **Fascia Reduction:** In both the [X] and [X] mile catchment areas there will be a reduction in fascia from four to three.
473. **One competitor is co-located with Hope Boston:** As can be seen from the map at Figure 48, Cemex has a site in the same location as Hope Boston, 2.4 miles away from Breedon Boston.
474. **One new competitor located in Boston:** The CMA was made aware that during the course of the inquiry a new site had opened operated by the independent operator Mick George. The CMA has included this in its analysis.

475. **Volumetric trucks:** Breedon submitted that there are four competitors which operate volumetric trucks in the area. The CMA did not receive any confirmation of the validity of the submission but even if it were the case, without compelling evidence of the constraint from volumetric trucks in this area, this would not be sufficient to offset the CMA's belief of a realistic prospect of an SLC arising as a result of the Merger.

***Third parties' views***

476. Competitors: A competitor told the CMA that Gem Mix and Mick George are independent producers which exercise a moderate constraint in this area.

***Conclusion***

477. The CMA noted that Breedon Boston and Hope Boston are geographically very close to each other and both serve customers located in and around Boston. Post-Merger there will only be two competing RMX operator within [X] miles of Boston, and one of them is a new operator in the area considered a moderate constraint by a third party. There are no additional operators located between [X] and [X] miles.
478. On the basis of this evidence, the CMA believes that there is a realistic prospect of an SLC arising as a result of the Merger in relation to the supply of RMX at both the Breedon site at Boston and the Hope site at Boston.