

# A417 Missing Link DCO

## Response to Examining Authority Written Questions 2

Gloucestershire County Council, Cotswold District Council,  
Tewkesbury Borough Council

30 March 2022

# Notice

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## Document history

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## Client signoff

Client	Gloucestershire County Council, Cotswold District Council, Tewkesbury Borough Council
Project	A417 Missing Link DCO
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# 1. Introduction

- 1.1.1. Gloucestershire County Council (GCC), Cotswold District Council (CDC), and Tewkesbury Borough Council (TBC) 'the Joint Councils' are the three host authorities for the National Highways' (NH) A417 Missing Link DCO Scheme 'the Scheme'.
- 1.1.2. This document is the Joint Councils Response to the Examining Authority's second written questions, issued on 17 March 2022.

**Table 1-1 - The Joint Councils response to Examining Authority's written questions 2**

ExA WQ2 ref	Question to:	Question	Joint Councils Response
<b>2.2 - Air Quality and Emissions</b>			
2.2.1	Joint Councils	<p>Carbon emissions</p> <p>The ExA note the content in the Statement of Common Ground with the Applicant [REP3-005]. You heard the matter of carbon emissions being debated at ISH2. Do you have any remaining concerns about the Applicant's approach, methodology, assessment or conclusions with regards to the scheme's predicted carbon emissions both during construction and operation? If so, what are they and how do they relate to the NPSNN?</p>	<p>The Joint Councils has resolved to accept National Highways' most recent position that the forecast greenhouse gas emissions that would be generated during the construction-stage of the Scheme could not be fully sequestered as part of the Scheme and that there are no national or local policies which would require it to do so. It is noted; however, that in a recent update, National Highways now proposes that the Environmental Management Plan (EMP) (REP4-028) would secure the production of a Carbon Management Plan (CMP). The scope of the CMP, as set out in the EMP, is supported by the Joint Councils. It is also understood that National Highways would need to consult the Joint Councils on the content of the CMP before it is discharged by Secretary of State under Requirement 3, this is also supported.</p>
<b>2.3 - Biodiversity, Ecology and Natural Environment</b>			
2.3.6	GWT, Natural England, National Trust, Joint Councils	<p>Position statement</p> <p>Produce a detailed position statement setting out the respective positions regarding the potential effects of increased recreational pressure upon the Crickley Hill and Barrow Wake units of SSSI. Each party's views on the likelihood of increased recreational pressure and the areas this would be experienced should be clear, alongside views on potential mitigations setting out areas of agreement and disagreement accordingly. Include, where necessary, references to the NPSNN and any disputes with the Applicant's position set out at Deadline 5 [REP5-008]. Since this is an 'operation effect' please confirm what, if any, concerns remain about construction effects either as a separate statement or chapter in your response.</p>	<p>The Joint Councils are aware of the issue but have a neutral position on whether increased recreational pressure is likely or not upon the SSSI units as a result of the A417 Scheme. Recreational pressure is already an ongoing matter that the Joint Councils with partners will continue to keep under surveillance whether the A417 Scheme goes ahead or not.</p>
<b>2.4 - Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>			
2.4.6	Joint Councils	<p>Ullenwood Cricket Club</p> <p>a) With reference to the Statement of Common Ground and the apparent acceptance by GCC of land being acquired by the Applicant, have any comments been received from the Cricket Club?</p> <p>b) Would the recreational facility be unavailable at any time to the club or the public during the construction phase of the development?</p>	<p>a) The Joint Councils understand that National Highways has been liaising directly with the Cricket Club.</p> <p>b) National Highways has advised us that during construction an alternative access to the Cricket Club will be agreed with GCC and/or the Cricket Club so that it can remain operational at all times. It is understood that this commitment is secured in the Construction Traffic Management Plan which would be secured under Requirement 3 of the DCO.</p>
<b>2.5 - DCO</b>			
2.5.9	Joint Councils	<p>Article 20</p> <p>You have stated that more detail is required within the National Trail Diversion Report.</p> <p>a) Given the Applicant's description at Deadline 3 [REP3-012], is this still your position and, if so, what detail do you consider needs to be before the Examination?</p> <p>b) If that detail were not forthcoming, how would you advise the ExA treat this matter in its recommendation?</p> <p>c) Would additional wording need to be included in Article 20 or an additional requirement added to meet your concerns?</p> <p>d) If so, what is your suggested wording?</p>	<p>The Joint Councils note the response provided by National Highways at paragraph 2.8.21 of National Highways Comments on responses received at Deadline 3 (REP4-035). The Joint Councils is satisfied that commitment PH1 in the EMP secures a process whereby National Highways must receive GCC's agreement to details of surfacing, signage and enclosures at the detailed design stage. On this basis the Joint Councils do not have any comments in response to parts b), c) or d) of this question.</p>

ExA WQ2 ref	Question to:	Question	Joint Councils Response
2.5.13	Historic England, Joint Councils, Cotswolds Conservation Board	<p>Requirement 9</p> <p>The Applicant has made changes to the wording of Requirement 9 to include specific reference to the OWSI and DAMS and included a definition of these and identified these as certified documents. Are the parties satisfied that these amendments address the concerns previously raised?</p>	<p>The Joint Councils are currently not in agreement with National Highways as to the wording of Requirement 9 and are therefore not satisfied that the current amendments address the concerns previously raised. The Joint Councils, Historic England and National Highways remain in discussion about this.</p> <p>Requirement 9 refers to a "scheme for the investigation and mitigation of areas of archaeological interest". The reference to a "scheme for the investigation and mitigation of areas of archaeological interest" appears to be a separate document in addition to the DAMS/OWSI. The Joint Councils cannot agree to and is not clear as to why this is needed, when the DAMS/OWSI is to be a certified document. The Joint Councils are concerned that by referring to a document which is additional to the DAMS/OWSI, the DAMS/OWSI will not be followed or implemented.</p> <p>In addition, the use of the word 'reflecting' the DAMS/OWSI within Requirement 9(1) is also not agreed with National Highways and cannot be accepted by the Joint Councils as it is not a definitive enough term and should be worded 'in accordance with the DAMS/OWSI'.</p> <p>Requirement 9(3) could be interpreted to mean that the entire archive will be deposited with the Historic Environment Record. This could be clarified by rewording the clause to state that <i>the report</i> will be deposited with the Historic Environment Record.</p> <p>The wording which the Joint Councils requires to address these concerns is the following (words required to be added in italics):</p> <p><b>Archaeology</b></p> <p>9. —(1) No part of the authorised development is to commence until for that part <i>site-specific written schemes</i> of investigation for each area and each phase (evaluation or detailed excavation or watching brief), has been prepared <i>in accordance with the DAMS/OWSI and in consultation</i> with the relevant planning authority and the local highway authority, agreed with the County Archaeologist in consultation with Historic England and submitted to and approved in writing by the Secretary of State.</p> <p>(2) The authorised development must be carried out in accordance with <i>the DAMS/OWSI and site-specific</i> written schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.</p> <p>(3) A programme of archaeological reporting, post excavation and publication required as part of the <i>DAMS/OWSI and site-specific</i> written schemes of investigation referred to in sub-paragraph (1) must be agreed with the County Archaeologist in consultation with Historic England and implemented within a timescale agreed with the County Archaeologist and <i>the report</i> deposited with the Historic Environment Record of the relevant planning authority within two years of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.</p> <p>(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be—</p> <ul style="list-style-type: none"> <li>(a) retained in situ and reported to the County Archaeologist as soon as reasonably practicable; and</li> <li>(b) subject to appropriate mitigation as set out in <i>the DAMS/OWSI</i> and mitigation agreed with the County Archaeologist.</li> </ul> <p>(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date the remains are reported to the County Archaeologist under sub-paragraph (4) unless otherwise agreed in writing by the Secretary of State.</p> <p>(6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the County Archaeologist.</p>
<b>1.7 – Heritage</b>			
2.7.1	Applicant, HE, Joint Councils	<p><b>Archaeological investigation</b></p> <p>Is the current method to secure the DAMS/ OWSI sufficiently robust? Some parties have suggested changes to the dDCO Requirement 9 to which the Applicant has responded by making changes to Requirement 9 in the latest draft of the DCO <a href="#">[REP4-014]</a>. Do these changes address the previous concerns?</p>	Refer to the response provided to ExAQ2.5.13 above.
2.7.2	Applicant, HE, CCB, Joint Councils	<p><b>Archaeological investigation</b></p> <p>If significant undiscovered remains are revealed, what are the consequences for the scheme and what are the remedies?</p>	The Joint Councils have remaining concerns that the archaeological evaluations to date may have not discovered all significant archaeology present within the Scheme area. There is therefore still a level of risk of currently unknown archaeology being encountered during construction which could cause time and cost over runs.

ExA WQ2 ref	Question to:	Question	Joint Councils Response
		Are they sufficiently clear and appropriately secured? Are all parties happy with these?	Positive discussions have been held between the Joint Councils, Historic England and National Highways representatives to agree refinements of the mitigation methodology outlined in the OWSI/DAMS, so as to minimise the risk of unexpected discoveries. The Joint Councils understand that a revised version of the OWSI/DAMS will be submitted into examination in the near future.
2.7.3	Applicant, HE, Joint Councils	<b>Archaeological investigation</b> It has been suggested that ongoing geophysical and geotechnical surveys would be fed into consultees; has any further work been done and are there any results to update? At the hearings it was suggested this may happen, potentially, after the Examination is concluded; are there any further details on when these are to take place? Are the parties happy with this approach?	Joint Council Officers have been shown preliminary results of further geophysical surveys, which have fed into discussions regarding the extent of necessary pre-construction archaeological excavations in areas known to contain concentrations of significant archaeology, to be defined in a revised OWSI/DAMS. Geophysical and geotechnical surveys are ongoing but reports into these investigations are awaited. The Joint Councils understand that a revised version of the OWSI/DAMS will be submitted into examination in the near future
2.7.4	Applicant, HE, Joint Councils	<b>Archaeological investigation</b> In respect of the Roman settlement at Cowley Junction, have parties agreed the appropriate mitigation measures, recording, etc? Is this adequately addressed/ secured in the appropriate Requirement (3 or 9) and details of the DAMS/ OWSI, or do these need further amending?	The Joint Councils' concerns in these areas can be met by further revisions to the OWSI/DAMS and Requirement 9. The Joint Councils have discussed the changes it expects to see with National Highways, and we understand that a revised version of the OWSI/DAMS will be submitted into examination in the near future
2.7.7	Applicant, HE, Joint Councils	<b>Cowley Conservation Area</b> ES Chapter 6 defines the Conservation Area of Cowley as being largely the setting to Cowley Manor (paragraphs 6.10.3 and 6.10.5), which is said to be unaffected as it is screened from the Proposed Development.  a) Is this a fair representation or assessment of the Conservation Area? b) The representation from Petra Vogel [REP3-061] suggests that the fields that surround the settlement are part of the historic character of the village. Is there merit in this? c) What effect, if any, does additional traffic travelling through the village (noise, disturbance etc) have on the character or setting of the Conservation Area?	a) and b) Cowley Conservation Area was designated in 1991, the Committee Report accompanying the decision is provided at Appendix A of this document. The appendix referenced in the Committee Report was not available, however a plan of the Conservation Area boundary is provided at Appendix B. Of note in the Committee Report: 'Cowley Manor, its associated buildings, and adjoining parts of the village are all worthy of designation. Besides the high quality buildings, the proposed conservation area includes the landscaped grounds historically associated with the manor, identified by English Heritage as a grade II listed historic park and garden.'  There is no Conservation Area Appraisal for Cowley Conservation Area. CDC has not undertaken a detailed analysis of the land around Cowley and therefore, cannot instruct the ExA of specific concerns.  In general terms, the Joint Councils would note that there would be no direct impact on the character and appearance of the Conservation Area; however, the Joint Councils would note that the fields and other open areas around a Conservation Area often form key parts of their setting and their degree of importance can vary. Increased distances generally suggest reduced importance.  The Joint Councils have not previously raised concerns in relation to potential impacts of the Scheme on the Conservation Area.  c) The Joint Councils consider this question to be aimed primarily at the Applicant who will be able to respond with references to their traffic modelling and predicted traffic volumes in Cowley. In general terms additional traffic can be detrimental to the character and/or setting of a Conservation Area, dependent on the level and type of that traffic and the character of the Conservation Area. The rural nature of the village plays a considerable role in defining the character of Cowley Conservation Area and therefore large volumes of traffic with associated environmental and amenity impacts would have a negative effect on it.

## 2.10 Socio Economic effects

2.10.2	Joint Councils	Flyup 417 a) What do you consider to be the lawful planning position at Flyup 417? b) Do you have any concerns about the potential incorporation of new buildings and/ or new car parking arrangements as part of the DCO 'essential mitigation' parameters? c) Would you require a consultative input into the design and layout of any such facilities, given the AONB location, if the Applicant were to include such provisions in the DCO?	a) The relevant planning history for the premises includes: 15/00226/FUL - The change of use of existing agricultural land and barns to D2 (Leisure) use and the formation of a mountain bike riding facility and ancillary uses on land at Crickley Hill Farm. - Permitted 18th June 2015. 17/00495/FUL - Change of use of agricultural land to D2 (Leisure) Use and the formation of additional routes to extend the mountain bike riding facility at Crickley Hill Farm. – Permitted 18 <sup>th</sup> May 2017 15/00226/FUL included provision for 70 parking spaces to be located on an existing manège area in north east of the Flyup site and 5 additional disabled spaces close to the indoor biking area. 17/00495/FUL added no further parking. TBC notes that the car park appears to have been extended westwards of the permitted car park. TBC is not aware that this extension to the car park has the necessary consent and appears to be unauthorised. b) The Joint Councils are not aware of any details of proposed buildings to potentially be provided as essential mitigation having been put before Examination, and therefore cannot provide specific comment at this stage. c) Tewkesbury Borough Council, as the relevant planning authority, and Gloucestershire County Council, as the local highway authority, would expect to be involved and consulted as part of the detailed design stage under the existing commitments for consultation set out in the Environmental Management Plan.
2.10.3	Natural England,	<b>Best and Most Versatile Agricultural Land</b> Do you consider that the Applicant's case for the loss of BMV is justified and robust for this scheme?	The Joint Councils are satisfied with the assessment of BMV land in the ES and recognise that the loss of BMV land is unavoidable to deliver the Scheme. This is reflected in Matters Agreed, 9.4 and 9.5. in the Statement of Common Ground with the Joint Councils, in Appendix A of the Statement of Commonality [REP5-005]

ExA WQ2 ref	Question to:	Question	Joint Councils Response
	Joint Councils		
<b>2.11 - Traffic and Transport</b>			
2.11.6	Joint Councils	<p><b>Leckhampton Hill</b></p> <p>In the Deadline 5 submission, there is a reference to a funded feasibility study being provided to look at potential options to mitigate (i.e. divert) traffic away from Leckhampton Hill “to <i>acceptable levels</i>.” Given that the Applicant has said the road will operate within its capacity, can you define what is considered an “<i>acceptable level</i>”?</p>	<p>The Joint Councils’ view remains that the forecast traffic flows on Leckhampton Hill in the 2041 ‘with scheme’ modelled scenario (the Do Something (DS) case) are unacceptable, given the predicted scale of increase when compared to the equivalent flows without the A417 scheme (the Do Minimum (DM) case). Traffic flows on adjacent local roads should not be adversely affected, compared to the case without the improvement scheme. By implementing the A417 scheme improvement however, the traffic model forecasts have indicated that flows on Leckhampton Hill are predicted to increase significantly, from an annual average daily traffic (AADT) flow of 7,600 vehicles for the future year 2041 DM to 11,500 for the 2041 DS, an increase in daily flows of more than 50%.</p> <p>Definition of an ‘acceptable level’ of traffic for a specific length of road is subjective, and is dependent on key determining factors including road classification (primary, secondary or minor), location (urban, suburban, rural), carriageway standard (S2 – single lane two-way, WS2 – wide single lane two-way, D2AP – Dual two lane all purpose), among other things. In the case of Leckhampton Hill, which is a minor c-class, rural, single lane two-way carriageway road, the Joint Councils would not expect to see an increase of higher than +25% above the forecast Do Minimum flows (7,600 + 25% = 9,500) once the A417 scheme improvement is in place.</p> <p>Analysis of the weekday peak period Volume/Capacity metric has been undertaken by NH without full regard to the significant predicted increase in traffic which, from the weekday AM and PM average peak hour flows presented in Table 2-2 of their submitted technical note [REP2-016], are shown to increase respectively by +90% and +129%.</p> <p>Leckhampton Hill is a parallel and alternative route to the A436 Ullenwood / A435 (for A417 traffic travelling to/from Cheltenham) which, as a primary ‘A’ class route, is the more appropriate route. Hence, the Joint Councils strongly recommend that NH investigate potential options for achieving a reduction in the predicted increase in Cheltenham-bound traffic travelling via Leckhampton Hill, in favour of such traffic using the more appropriate alternative ‘A’ class roads via A436/A435.</p> <p>Positive discussions are ongoing with the applicant to resolve this issue.</p>
<b>2.12 - Water Environment and Flood Risk</b>			
2.12.1	Environment Agency, Joint Councils (specifically GCC in role as LLFA)	<p><b>Norman’s Brook</b></p> <p>Are there any remaining concerns regarding the realignment of the tributary of Norman’s Brook and subsequent effects on the hydrology profiles, or do both the Drainage Report [APP-406] and the Environmental Management Plan [REP4-027] provide sufficient reassurance and controls?</p>	<p>The Joint Councils refer to their Deadline 5 submission [REP5-016] in which we offered no new comments in relation to the proposed change. National Highways and the Joint Councils have arrangements in place to replicate the land drainage act consent process via side agreement. Through this process the written consent of the Lead Local Flood Authority will be required for any changes to the Norman’s Brook, its tributaries and any affected ordinary watercourse.</p>



# Appendix A. 1991 Committee Report

CJV

ITEM FOR CONSIDERATION AND DECISION

CONSERVATION AREA PROPOSAL - COWLEY (D/P)

1. Cowley only became part of Cotswold District on 1st April, 1991, therefore it did not feature on the list of possible designations when the comprehensive review of Conservation Areas was carried out between 1988 and 1990. However, Cowley Manor, its associated buildings, and adjoining parts of the village are all worthy of designation. Besides the high quality buildings, the proposed Conservation Area also includes the landscaped grounds historically associated with the Manor (identified by English Heritage as a grade II historic park and garden). The designation is particularly important given that Cowley Manor is now on the market.

2. The proposal falls equally between the Parishes of Cowley and Coberley. Neither Parish Council raised any objections to the proposed designation which is shown in Orange Appendix ...

3. Implications

This report has no legal, financial or other implications.

4. Recommendation

(a) That the boundary shown on the plan of the draft designation for Cowley in Orange Appendix ... be approved and that this be formally designated a Conservation Area;

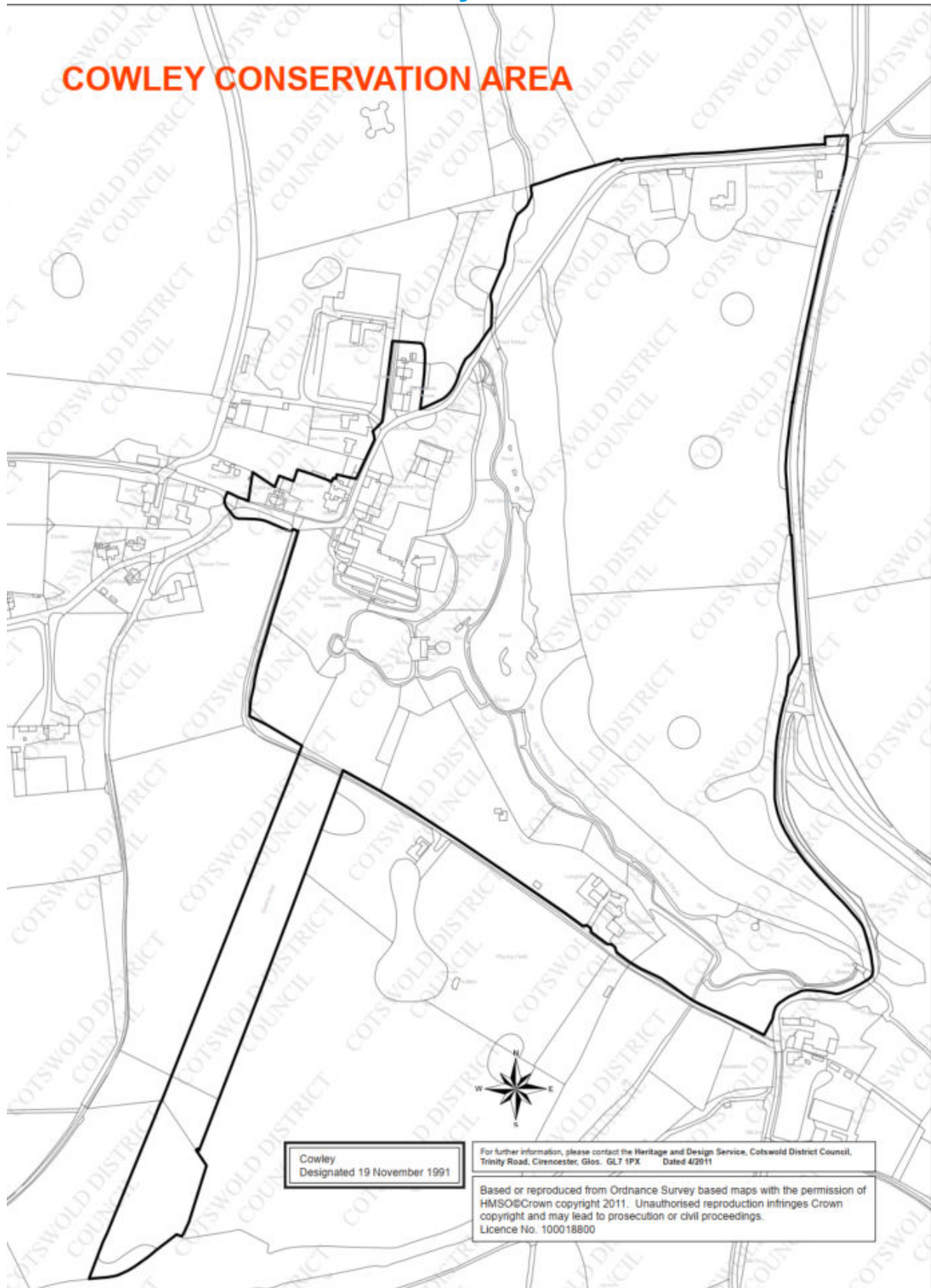
(b) that, subject to approval, notice of recommendation (a) be published in the London Gazette and at least one local newspaper.

BACKGROUND PAPERS

<u>Description</u>	<u>Date</u>	<u>File Ref</u>
Correspondence	31.7.91	Forward
	to	Planning
	5.10.91	(CJV)

Officer: CJV

# Appendix B. Cowley Conservation Area Boundary



Planning and Environmental Consenting

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