

M5 Junction 10 Improvements Scheme

Statement of Common Ground

Natural England

TR010063 - APP 8.5

Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Volume 8
December 2023

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Infrastructure Planning Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

M5 Junction 10 Improvements Scheme Development Consent Order 202[x]

8.5 Statement of Common Ground Natural England

Regulation Number:	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010063
Application Document Reference	TR010063 - APP 8.5
Author:	M5 Junction 10 Improvements Scheme Project Team

Version	Date	Status of Version
Rev 0	December 2023	DCO Application

STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Gloucestershire County Council and (2) Natural England.

Signed

On behalf of Gloucestershire County Council

Date:

Signed

On behalf of Natural England

Date:

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Glossary

Term	Meaning / Definition
(The) Act	The Planning Act 2008 (as amended)
(The) Applicant	Gloucestershire County Council (Strategic Development team) applying for the DCO
Biodiversity Net Gain (BNG)	Biodiversity Net Gain delivers measurable improvements for Biodiversity by creating or enhancing habitats in association with development
Carter Jonas (CJ)	Land referencing consultant working on behalf of the Applicant
Cheltenham Borough Council (CBC)	CBC is the local planning authority for Cheltenham Borough, and is a statutory consultee for the scheme, as defined under section 42(1)(b) and section 43(b) of the Act
Development Consent Order (DCO)	The consent for the construction, operation and maintenance of Nationally Significant Infrastructure Projects (NSIP) given by the relevant Secretary of State on the recommendation of the Planning Inspectorate under the Planning Act 2008 (as amended).
Environment Agency (EA)	A non-departmental public body with responsibilities relating to the protection and enhancement of the environment in England.
Environmental Impact Assessment (EIA)	A process of evaluating the likely environmental impacts of a proposed development, including inter-related socioeconomic, cultural and human health impacts, both beneficial and adverse.
Environmental Statement (ES)	Reports the findings of the EIA, including at least the information reasonably required to assess the likely significant environmental effects of the development.
Examining Authority (ExA)	The person(s) appointed by the Secretary of State (SoS) to assess the DCO application and make a recommendation to the SoS.
Flood Risk Assessment (FRA)	An assessment of the likelihood of flooding in a particular area so that development needs, and mitigation measures can be considered.
Gloucestershire County Council (GCC)	Gloucestershire County Council. It is therefore a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(c) of the Planning Act 2008 ("the Act"). GCC is the local highway authority in Gloucestershire and is the Minerals and Waste Planning Authority (MWPA) for Gloucestershire. GCC also has statutory duties in relation to drainage, flood risk, and heritage assets and archaeology.
Historic England	Publicly funded body that champions and protects England's historic places, also known as the Historic Buildings and Monuments Commission for England.
Host Authority	The local authority, within which the Scheme would be situated, In this case, Cheltenham Borough Council, Gloucestershire County Council and Tewkesbury Borough Council.
Local Planning Authority (LPA)	The county council, metropolitan, or district council, which has statutory responsibilities within its administrative areas.

Nationally Significant Infrastructure Project (NSIP)	A project of a type and scale defined under the Planning Act 2008 and by Order of the Secretary of State (SoS) relating to energy, transport, water, wastewater and waste generally. These projects require a single development consent, which includes consents under different regimes, such as planning permission, listed building consent and scheduled monument consent.
Natural England (NE)	Executive non-departmental public body responsible for the natural environment.
Planning Inspectorate (PINS)	The Government Agency responsible for operating the planning process for NSIPs. The Planning Inspectorate is responsible for examining DCO applications and making recommendations to the relevant SoS, who will make the decision on whether to grant or to refuse development consent. The SoS for Transport takes the decision on applications for highway NSIPs.
Preferred Route Announcement	Designation of a proposed option as a 'preferred route' by the Department for Transport, announced in June 2021, and provides a form of planning protection from development of land in the vicinity of the M5 Junction 10 Improvements Scheme
Statement of Community Consultation (SoCC)	Prepared in accordance with Section 47 of the Planning Act 2008, to inform, explain and communicate how the consultation will be undertaken.
Statutory Consultation	In accordance with the Planning Act 2008, applicants of major infrastructure projects have a statutory duty to carry out a consultation on their proposals before submitting an application to the Planning Inspector.
(the) Scheme	The proposed M5 Junction 10 Improvements development which is the subject of a DCO application.
Tewkesbury Borough Council (TBC)	Tewkesbury Borough Council is the local planning authority for Tewkesbury Borough and a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(b) of the Act.
Water Framework directive	The Water Framework Directive (2000/60/EC) which established a framework for European Community action in the field of water policy.

1. Introduction

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared in respect of the application for the M5 Junction 10 Improvements Scheme (“the Scheme”) made by Gloucestershire County Council (GCC) (the Applicant) to the Secretary of State for a Development Consent Order (DCO) under section 37 of the Planning Act 2008.
- 1.1.2. If made, the DCO would grant consent for the construction of improvement works to M5 Junction 10, consisting of a new all-movements motorway junction; a new West Cheltenham Link Road (the Link Road from the A4019 to B4634 (Old Gloucester Road)), and the widening of the A4019 (Tewkesbury Road) east of the junction to the Gallagher Retail Park Junction. A small section of the A4019 will be realigned to the west of the junction.

1.2. Purpose of the report

- 1.2.1. This document is a SoCG between GCC (the Applicant) and Natural England (NE) in relation to the M5 J10 Improvements Scheme.
- 1.2.2. The document identifies the following between the parties:
- Matters which have been agreed; and
 - Matters currently outstanding (subject to negotiation or not agreed)
- 1.2.3. The matters which are referenced in this document are considered to be of material difference. Other lesser matters, such as those that concern amendments to supporting documents, will be reported on in the Consultation Report or addressed in the Environmental Statement (ES), submitted as part of the DCO application.
- 1.2.4. The SoCG will continue to evolve as the application for development consent progresses through the pre-application and Examination stages.

1.3. Structure of Statements of Common Ground

- 1.3.1. The SoCG has been structured in a consistent form and sets out the matters which are agreed, the matters subject to further discussion and those matters which are not agreed. A SoCG will be tailored according to the approach agreed with the interested party concerned.
- 1.3.2. This SoCG has the following structure
- Section 1: Introduces the SoCG and provides a description of its purpose.
 - Section 2: Outlines the engagement that has taken place with the interested party.
 - Section 3: Sets out any issues that have arisen, reporting on the status of each issue, i.e., whether it is agreed, still under discussion or not agreed, and any remaining actions.
- 1.3.3. Where relevant, documents that are referenced in the SoCG but do not form part of the application are available to the Examining Authority (ExA) upon request. The latest versions of these documents are:
- M5 J10 Improvement Scheme NE Consultation (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01).
 - Bat Survey Protocol (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).
 - Bat Survey Protocol Addendum (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).

1.3.4. In addition, the following documents are appended to this SoCG:

- NE Badgers Letter of no Impediment (LoNI) (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000067), Appendix B.
- NE Dormouse LoNI (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000068), Appendix C.
- NE Pre-Submission Screening FCS form dormouse (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000069), Appendix D.
- Atkins response to NE comments on the dormouse license (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000070), Appendix E.

1.4. Status of this SoCG

1.4.1. This SoCG is a correct reflection of the position of both parties at the pre-application stage.

1.4.2. It is acknowledged that the views and opinions of both parties may change over time and as such this SoCG will continue to evolve as the application for development consent progresses through the Examination Stage.

2. Consultation

2.1. The Role of GCC

2.1.1. In this SoCG, GCC is the Applicant for the M5 Junction 10 Improvements Scheme and this is separate and independent from the other functions and statutory duties carried out by the Council. As Applicant, GCC are promoting and delivering the Scheme with support of the rest of the Council, other Local Planning Authorities, National Highways and Homes England.

2.2. The Role of NE

2.2.1. NE is an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). NE is the government's advisor to protect England's nature and landscape for people to enjoy and for the services they provide.

2.2.2. NE's role in relation to the DCO process derives from the Planning Act 2008 (PA 2008) and secondary legislation made under the Planning Act 2008. The roles and responsibilities of NE under the Planning Act 2008 fall into the following categories:

- As one of the prescribed consultees under section 42 of the PA 2008 that applicants are required to consult before submitting a Nationally Significant Infrastructure Project (NSIP) application.
- As one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any Environmental Impact Assessment (EIA) and as a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (EIA) Regulations 2009.
- As a statutory party in the examination of DCO applications.
- As a statutory nature conservation body under the Conservation of Habitats and Species and Planning (Various amendments) (England & Wales) Regulations 2018 (Habitats Regulations) in respect of the Habitats Regulations Assessment (HRA).
- As a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations.

2.3. Summary of Consultation

2.3.1. GCC has been in consultation with NE during the development of the Scheme's design, including the optioneering process. The parties have continued communicating throughout the progression of the Scheme.

2.3.2. The engagement outlined in Table 2-1 covers formal consultation with NE and engagement which pertains to matters raised in this SoCG. Other exchanges, such as requests for information or clarification points are not detailed below but are available on request.

2.3.3. The consultation with NE since 02.12.2021 is set in Table 2-1.

Table 2-1 – Consultation with NE

Date	Method	Matters discussed
02.12.2020	Email	<p>Atkins sent a package of information to NE, including:</p> <ul style="list-style-type: none"> • M5 Junction 10 Improvement Habitats Regulations Assessment (HRA) Screening Report (16/12/19) (report reference GCCM5J10-ATK-EBD-XX-RP-LE-000001-C01). • M5 J10 Improvement Scheme NE Consultation (November 2020) (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01). Figures 1 – 24 (sent at a later date (30/03/2021) via file transfer due to the size of the files, and once the agreement with GCC was set up. This document provided an overview of the desk study and surveys undertaken to September 2020; identified any limitations encountered; summarised the results of the desk study and survey work and provided a preliminary valuation for each biodiversity resource. It also discussed proposed further survey work and posed specific questions to NE.
16.04.2021	Email	<p>Comments were received from NE on the above package of information. NE agreed on:</p> <ul style="list-style-type: none"> • The bat survey work presented to them at that time. • The approach to great crested newts. • The proposed approach to address some of the older survey data. <p>NE also commented that other species surveys appeared to be in line with relevant guidance.</p> <p>Regarding the HRA, NE commented:</p> <ul style="list-style-type: none"> • That it does not consider that likely significant effects can be ruled out based on migratory functionally linked species of the Severn Estuary SAC/Ramsar, specifically fish, including European eel. • That it does not consider that effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out based on the information provided. In particular, the narrative around functionally linked land should be strengthened. • That the conclusion that there would be no impacts on the Wye Valley and Forest of Dean Bat Sites SAC should be strengthened by considering any commuting/foraging routes. • That a number of fish species had been omitted from the Severn Estuary SAC/Ramsar list of qualifying features, and that the Environment Agency should be consulted. • That the narrative around screening out effects on the downstream Severn Estuary designations as a result of distance and dilution should be strengthened. • That air quality effects need further consideration.
27.07.2021	Email	<p>Atkins provided a response to NE's comments. Comments on the HRA were addressed in the HRA that supported the PEIR,</p>

		<p>which has been updated again to support the ES (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)).</p> <p>The following document was also provided to NE along with the response:</p> <p>M5 Junction 10 Improvements Scheme Bat Survey Protocol (23/07/21) (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01). This document details the methodology for the bat surveys. An Addendum to this document was provided on 07.07.2022.</p>
06.12.2021	Email	Consultation materials were sent to NE for comment.
15.02.2022	Email	Representation from NE was received.
29.03.2022	Email	<p>NE provided further comments on the PEIR.</p> <p>Following the statutory consultation, NE commented that potential for recreational pressure to the Cotswold Beechwoods SAC and Coombe Hill Canal SSSI should be considered, and that the latter has been shown to be functionally linked to the Severn Estuary SPA. These matters have been addressed in the updated HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)).</p>
07.04.2022	Email	Atkins followed up on comments made by NE and asked whether NE would like to review and comment on the addendum to the bat survey protocol.
10.06.2022	Email	<p>Atkins provided NE with a link to the HRA which supported the PEIR and confirmed that the HRA had been updated to incorporate NE’s comments received in April 2021. Atkins advised NE that the HRA would be updated again for submission with the ES.</p> <p>Atkins advised on timescales for draft protected species licences.</p> <p>A document outlining survey work proposed / currently underway in 2022 was provided to NE for comment. The document also reviewed the study areas and ecological zones of influence of all biodiversity resources, for NE’s comment.</p>
07.07.2022	Email	<p>Atkins provided NE with the Bat Survey Protocol Addendum (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).</p> <p>Atkins provided an update to timescales for draft protected species licences.</p>
05.08.2022	Email	Atkins provided NE with draft bat and badger mitigation licences for review and comment.
10.10.2022	Email	NE responded to the document sent on 10.06.2022 that they were in agreement with the proposal not to survey the stretches of the M5 verge outside of the highway alignment,

		but within the Order limits. These extend approximately 2 km north and 2 km south of the highway alignment.
03.11.2022	Meeting (Virtual via Teams)	Meeting with NE Licensing Team to discuss the draft bat licence. A number of items were discussed. NE's key concern was around how gaps in the bat roost survey data have been addressed. Minutes of the meeting were circulated on 10.11.2022 for review and comment.
07.11.2022	Email	Updated HRA provided to NE (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)). On 09.11.2022 NE responded that they agree with the conclusion that likely significant effects as a result of recreational impacts to the Cotswold Beechwood SAC and the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out. Comments from NE's freshwater team were received on 30.11.2022. Overall, NE agree with the conclusion of no adverse effects on the integrity of the Severn Estuary designations, however a number of points were raised which have been addressed with minor amendments to the SIAA.
08.11.2022	Email	Atkins provided NE with the draft dormouse mitigation licence. Information about an area of lowland meadow priority habitat was provided to NE, including the broad approach to compensating for loss of a small area of this habitat.
14.11.2022	Email	NE responded to the information about an area of lowland meadow priority habitat and agreed with the broad proposals and provided some additional minor comments which were responded to on 16.11.2022.
05.12.2022	Meeting (Virtual via Teams)	Meeting with NE to discuss how to progress with the SoCG. It was agreed that Atkins will update the SoCG and NE will respond to the Statement accordingly.
05.12.2022	Email	Atkins sent documents (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000060 and document reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000059) which detailed the revised process undertaken to address gaps in the bat roost survey data raised by NE via a Teams Meeting on 03.11.2022.
13.12.2022	Email	Atkins sent document (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000061) which provides more information about the compensatory roost structures proposed following the Teams Meeting with NE on 03.11.2022.
16.01.2023	Email	As part of the Further Targeted Consultation, consultation materials were sent to NE for comment.
17.01.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the proposed changes to the Scheme, summarised within the Further Targeted Consultation materials.
18.01.2023	Email	Representation received from NE, in relation to the Further Targeted Consultation.

20.01.2023	Email	NE provided comments on the Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000060) sent to them on 05.12.2022.
26.01.2023	Email	Atkins provided an initial response to the comments NE provided on the 20.01.2023.
26.01.2023	Email	NE provided comments on the draft badger licence, including a list of conditions to be included on the Letter of No Impediment (LoNI).
27.01.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the comments provided via email on 20.01.2023, on the approach to bats.
30.01.2023	Email	Atkins emailed NE a summary of the key actions and outcomes from the meeting on the 27.01.2023.
08.02.2023	Email	Atkins responded to the list of conditions to be included on the badger LoNI, querying the need for bait marking surveys.
09.02.2023	Email	Atkins sent an updated copy of document (report reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000060) Refined Bat Roost Assessment.
10.02.2023	Email	Atkins sent an updated copy of document (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003) SoCG.
20.02.2023	Email	NE provided comments on the draft dormouse mitigation licence application (originally sent to NE on 08.11.2022), stating that if the comments/changes can be agreed to then NE can issue a LoNI.
21.02.2023	Email	NE proposed an approach to bait marking and artificial sett locations for Atkins to consider which Atkins agreed to via email on 28.02.2023.
28.02.2023	Email	Atkins confirmed that NE's comments/changes to the draft dormouse mitigation licence application will be actioned and incorporated into the formal licence submission.
06.03.2023	Meeting (Virtual via Teams)	Short meeting with NE to discuss how to progress with the SoCG. NE agreed their approach to providing comments on the bat materials and agreed to provide comments on the SoCG.
10.03.2023	Email	NE provided comments on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).
21.03.2023	Email	Atkins provided NE with an updated HRA SIAA, which has been updated to address comments from NE's freshwater team (received on 30.11.2022), as well as comments received during client/legal/National Highways review. Request that NE confirm (or otherwise) that they are satisfied that all comments have been adequately addressed and closed out.
30.03.2023	Email	NE provided Atkins with a badger LoNI
31.03.2023	Email	Atkins provided NE with a figure which provides more detail about the developments surrounding the M5J10 Scheme, as well as the draft bat licence Application Form with the 'named ecologist' section completed. The intention is for these documents to help progress the draft bat licence.
14.04.2023	Email	NE provided Atkins with a dormouse LoNI and decision documentation.

26.04.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the next steps to resolve concerns regarding bat surveys and progress the SoCG, and the next steps of the Scheme. Meeting minutes and key points were circulated on 05.05.2023, including a proposed way forward with regard to the LoNI.
02.05.2023	Email	NE confirmed that they are satisfied that all previous comments on the HRA have been addressed.
16.05.2023	Email	Further Information Request (FIR) received from NE in relation to the draft bat licence. Further clarification was provided by NE on 17.05.2023. This clarified that NE's key comment in the FIR was around compensation for low conservation value roosts that will/are predicted to experience temporary disturbance. On 19.05.2023 Atkins provided a response to NE to address this key comment.
16.05.2023	Email	The following parts of the ES were provided to NE for comment: <ul style="list-style-type: none"> • Environmental Statement Chapter 2 – Scheme Description • Environmental Statement Chapter 7 – Biodiversity • Environmental Statement Chapter 5 – Air Quality • Register of Environmental Actions and Commitments • Environmental Master Plans
25.05.2023	Email	As part of the Further Targeted Consultation on the proposed bus lane, consultation materials were sent to NE for comment.
30.05.2023	Email	NE rejected the proposed way forward to secure the LoNI set out in the email on 05.05.2023. On 12.06.2023 Atkins responded that they acknowledged this position, and posed a number of queries to NE.
12.06.2023	Email	Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane.
23.06.2023	Email	Comments received from NE on the Biodiversity and Air Quality chapters.
18.07.2023	Email	NE provided further comment on the compensation proposed for bats, following correspondence on 19.05.2023.
19.07.2023	Meeting (Virtual via Teams)	Atkins and NE discussed the email from 18.07.2023, the 2023 bat survey work and the situation with regard to structures, the next steps with regard the LoNI for bats and the SoCG.
16.08.2023	Email	NE provided comments on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).
12.09.2023	Email	NE provided further comment on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).

3. Topics covered in this SoCG

3.1.1. The following table is a summary of the topics which are considered within this SoCG.

Table 3-1 – Summary of topics considered within this SoCG

Overarching topic	Topic Number	Topic
Background	1.	Principle of Development
	2.	Statutory Consultation
Relevant ES Chapter	3.	Assessment of Alternatives
	4.	Environmental Impact Assessment Methodology
	5.	Air Quality
	6.	Noise and Vibration
	7.	Biodiversity
	8.	Road Drainage and the Water Environment
	9.	Landscape and Visual
	10.	Geology and Soils
	11.	Cultural Heritage
	12.	Materials and Waste
	13.	Population and Human Health
	14.	Climate
	15.	Assessment of Cumulative Effects
Other Topics	16.	Engineering Design
	17.	Draft Development Consent Order
	18.	Land
	19.	Environmental Management Plan
	20.	Construction Traffic Management Plan

4. Matters Agreed

4.1.1. Table 4-1 shows those matters which have been agreed, including the matter reference number, and the date and method by which it was agreed.

Table 4-1 will be added to as the SoCG process is progressed.

Table 4-1 – Summary of matters which have been agreed by topics considered within this SoCG

Matter Reference number	Position	Date and method of agreement
1. Principle of Development		
1.1	<p><u>NE Comment</u></p> <p><i>Positive Environmental Enhancements. Consistent with the NSIP scheme’s fundamental role in delivering a range of benefits for the North West and West Cheltenham strategic allocations (para 2.21 ‘Objectives of the scheme’) NE strongly encourages clear reference to the natural environment opportunities and enhancements flowing from this scheme. Impacts may be positive as well as negative. They should include consideration of the synergies on offer by integrating environmental and social themes, in particular through multifunctional green and blue infrastructure. NE would welcome further dialogue with you in order to inform the scheme’s design prior to ‘Design fix3’ (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>This has been addressed in the Environment Statement (ES) and dialogue with NE has been maintained. Table 2-1 outlines correspondence with NE to date.</p>	Agreed via email on 10.03.2023
1.2		
2. Statutory Consultation		
2.1		
3. Assessment of Alternatives		

Matter Reference number	Position	Date and method of agreement
4. Environmental Impact Assessment Methodology		
4.1.	<p><u>NE Comment</u></p> <p><i>This approach is supported by:</i></p> <p><i>(i) The report's reference (7.2.19) to paragraphs 5.20 – 5.38 of NPS National Networks, 2014, in particular "the applicant should show the extent to which the project has 'taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests'"</i></p> <p><i>(ii) In relation to NPS NN paras 5.22-23 relating to designated sites we also draw your attention to:</i></p> <p><i>a) the emerging Cotswold Beechwoods Special Area of Conservation (SAC) 'strategic solution'. This project's focus on informal recreation involves an area of land ('zone of influence') which includes the scheme red line boundary. This represents a further consideration and an opportunity to integrate the scheme's design with the strategic allocations' land use planning context.</i></p> <p><i>b) The ongoing joint commission by Gloucestershire's local planning authorities to conduct visitor surveys of key destinations around the Severn Estuary and sites within the Severn Vale identified as having proven or possible functional linkages with the Severn Estuary Special Protection Area (SPA). The latter include Coombe Hill Canal SSSI and Coombe Hill Meadows Nature Reserve a short drive west from the scheme. (Planning Consultation, 15.02.2022)</i></p> <p><u>Atkins Response</u></p> <p>It is acknowledged that the Scheme will 'unlock' a number of housing developments that will result in an increase in residents in the area, which could potentially result in an increase in visitor pressure to the sites mentioned.</p> <p>Further consideration has been given to in-combination recreational impacts, and the documents mentioned have been reviewed.</p> <p>All parts of comment (ii) have been addressed through updates to the HRA.</p> <p>Having reviewed the HRA, NE advise that in these circumstances it is appropriate to rely on the HRA of the planning applications for the unlocked housing developments to ascertain whether the road improvement will have an adverse effect on the integrity of the European Sites.</p>	Agreed via email on 10.03.2023

Matter Reference number	Position	Date and method of agreement
5. Air Quality		
5.1.	<p><u>NE Comment</u></p> <p><i>Previous advice advised that; as part of the process, through the Habitat Regulations Assessment, consideration of designated sites is sought and the impacts from air quality examined. This will include for example, consideration of nitrogen deposition on any SSSI's. We would draw attention to the two pieces of case law; the Wealden Judgement and Dutch Nitrogen Case. Consideration should be given to the relevant methodology set out in Highways England's 'Design Manual for Roads and Bridges'. The Air Pollution Information System (APIS) also provides specific information on the air quality theme for each designated site, which may be affected, and should be factored into the methodology when establishing the 'baseline' (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>The ES has been prepared in accordance with industry best practice guidance, LA105 published by National Highways and NE's guidance (NE Internal Guidance – Approach to Advising Competent Authorities on Road Traffic Emissions and HRAs V1.4 Final - June 2018), to examine the potential impact of the proposed Scheme on air quality in terms of human health and biodiversity. This includes for an assessment of air quality impacts as a result of nitrogen deposition from road traffic emissions on designated habitats within 200m of the affected road network (ARN). Designated habitats include: European Sites, Statutory and non-statutory designated nature conservation sites, nature improvement areas, areas of ancient woodland and veteran trees. As described in the ES, seven non-statutory designated sites were identified within 200m of the ARN. The results of the air quality assessment identified air quality improvements at all locations, with either no change or a reduction in nitrogen deposition rate estimated at all locations with the Scheme in place. No other designated habitats were identified within 200m of the ARN.</p> <p>Following review of the HRA Screening report, NE have confirmed that they are in agreement with the conclusion that likely significant effects as a result of air quality can be ruled out on European Sites.</p>	Agreed via email on 09.11.2022
5.2.	<p><u>NE Comment</u></p> <p><i>You have used Highways England's guidance rather than our own. Broadly speaking, Highways England's guidance is acceptable for use on SSSIs and non-statutory sites, but it provides insufficient guidance in relation to European sites. Both guidance documents use identical screening distances, but if in other ways such as the use of critical low threshold. In this particular case you have been able to screen out impact due to distance criteria. It could therefore be argued that it is acceptable to rely on Highways England's guidance. Nonetheless it may be worth updating</i></p>	Agreed via email on 02.05.2023

Matter Reference number	Position	Date and method of agreement
	<p><i>the references in the screening assessment confirmed that the screening assessment is consistent with our guidance also (Updated HRA provided to NE on 07.11.2022 and NE comments received on 09.11.2022).</i></p> <p><u>Atkins Response</u></p> <p>Reference to NE's guidance has been added to paragraph 2.2.2 and throughout. As explained in 2.2.3, distance is considered in the identification of European sites, but wherever there is a potential impact pathway, sites have been screened in, regardless of distance.</p> <p>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</p>	
<p>5.3.</p>	<p><u>NE Comment</u></p> <p><i>Your screening assessment of recreational impacts includes a discussion about the fact that although the NSIP is not causing direct recreational impacts it is unlocking housing development which could. Arguably the same argument could be applied to air quality - the road itself is not anticipated to cause air quality impacts but it is unlocking housing development which could increase traffic and hence cause air quality impacts on designated sites nearby. It may therefore be worthwhile introducing a discussion about this into the section on air quality. The reasons for ruling out likely significant effect could be the same as for recreational impacts – i.e. these unlocked housing developments will be subject to their own HRA and local planning policy also contains air quality statements (Updated HRA provided to NE on 07.11.2022 and NE comments received on 09.11.2022).</i></p> <p><u>Atkins Response</u></p> <p>The air quality assessment includes an assessment of air quality impacts for the opening year (2027) and the future year scenario (2042). Therefore, the assessment has already considered these in-combination effects. This has been clarified in 4.2.33 and 4.3.10. Relevant policies in the local plans have also been included to provide further assurances.</p> <p>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</p>	<p>Agreed via email on 02.05.2023</p>
<p>5.4.</p>	<p><u>NE Comment</u></p> <p><i>We note that all statutory sites are beyond 200m from the “affected road network” and we agree that it is appropriate in these circumstances to conclude that airborne emissions will not harm these statutory sites. We note that there are a small number of non-statutory sites within the affected road</i></p>	

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	<p><i>network that will receive an improvement in air-quality as a result of the development. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><u>Atkins Response</u> Noted.</p>	
<p>5.5.</p>	<p><u>NE Comment</u> <i>We understand that in recent weeks the decision has been made to include a bus lane within the development. We recommend updating modelling to ensure it accurately reflects what is likely to be on the road. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023). The consultation states that there will be no significant impact on air quality but it does not confirm whether this conclusion has been reached in relation to human health or habitats (or both). This scheme is already lowering air pollution and we anticipate that the decision to include a bus lane will deliver even more reductions. Nonetheless it is important that the air quality modelling is updated to accurately reflect what will be on the road. This information can then be used to assess the impacts on protected habitats (Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane 23.06.2023).</i></p> <p><u>Atkins Response</u> The air quality assessment published in July 2023 incorporates the latest traffic modelling which includes the bus lane along the A4019.</p>	
<p>5.6.</p>	<p><u>NE Comment</u> <i>The assessment of air quality on habitats has been undertaken following guidance produced by National Highways (“DMRB LA105”). As we have raised before, we would encourage the assessment to follow our own guidance (“NE’s approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations”) especially as European Sites may be affected by airborne emissions from the new road. Whilst there are significant similarities between these two guidance documents, there are subtle differences particularly towards the latter stages of assessment.(Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><u>Atkins Response</u> Previously NE have stated that broadly speaking, National Highways guidance is acceptable for use on SSSIs and non-statutory sites, but it provides insufficient guidance in relation to European sites.</p>	<p>Agreed to move to matters agreed via email on 16.08.2023</p>

Matter Reference number	Position	Date and method of agreement
	<p>Both guidance documents use identical screening distances (but differ in other ways). In this particular case we have been able to screen out impacts to European sites due to distance criteria. The sites identified within 200m of the ARN are all non-statutory sites. We therefore feel that is acceptable to rely on the methodology detailed in the National Highways guidance to assess the potential impacts of non-statutory sites. Reference to NE guidance has been added to the HRA Screening report to confirm that the screening assessment is consistent with NE guidance also.</p>	
<p>5.7.</p>	<p><u>NE Comment</u> <i>The assessment of air-quality impacts on habitats has considered the impacts of nitrogen deposition. However road schemes emit three types of pollutant: nitrogen deposition, nitrogen oxides (NOx) and ammonia. It is now standard practice to assess changes in all three of these pollutants for developments that involve road infrastructure and/or major changes in traffic. We would draw your attention to the current live planning application for the Shrewsbury North West Relief Road (21/00924/EIA) where comprehensive modelling and assessment of all three pollutants was undertaken. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><u>Atkins Response</u> Ammonia and NO2 have been assessed and their contribution to Nitrogen deposition has been reported. NOx concentrations have not been reported, in line with National Highways guidance.</p> <p><u>NE Comment</u> <i>Whilst we are happy to move this from Matters Outstanding to Matters Agreed we would like to make the following clarification as we feel your air-quality specialist has misunderstood the point we were trying to make:</i></p> <ul style="list-style-type: none"> - <i>We are of course aware that nitrogen deposition consists of oxidised and reduced forms of nitrogen and we agree that it is appropriate to give a combined figure when assessing the impacts of nitrogen deposition on habitats</i> - <i>The point we are making is that road traffic emits three types of pollutants – NOx, ammonia and nitrogen deposition. The former two pollutants are typically deposited in dry form and typically cause toxic impacts on vegetation particularly bryophytes and lichens. The latter pollutant is typically deposited in wet form and typically causes eutrophication that can lead to community change. For these reasons it is important to assess all three of these pollutants.</i> 	<p>Agreed to move to matters agreed via email on 16.08.2023</p>

Matter Reference number	Position	Date and method of agreement
	<ul style="list-style-type: none"> - <i>For road traffic emissions it has been standard practice for many years to assess both NOx and nitrogen deposition from new road proposals. The need to assess ammonia has arisen more recently as is becoming more evident that vehicles emit a more ammonia than previously thought. Most applications for new road proposals now include ammonia assessments. Again we would draw your attention to the current live planning application for the Shrewsbury North West Relief Road as a best practice example of how to assess all three pollutants from road traffic.</i> - <i>In this particular case you have been able to screen out air-quality impacts on the designated sites on distance criteria. For this reason no air quality modelling is obliged. However we are slightly concerned that the discussion around this point focuses predominantly on nitrogen deposition with only minor references to NOx and no references at all to ammonia. We strongly encourage you to present your conclusions on the impact of air quality on designated sites in the context of all three pollutants.</i> - <i>Similarly the main conclusion of the impacts of air-quality and non-designated sites is that air quality is improving. Again we would strongly encourage you to present this conclusion in the context of all three pollutants. (Email received from NE on 16.08.2023).</i> <p><u>Atkins Response</u> Apologies for any miscommunication. Just to clarify the air quality chapter has been updated since January 2023 to reflect the bus lane update scenario. We have modelled the change in NOx concentrations and estimated change in NH3 and NO2 concentrations and nitrogen deposition at all Local Wildlife Sites (LWS) identified in the report. There is a reduction (or no change) in modelled NOx concentrations and estimated ammonia concentrations and NO2 concentrations at all LWS. Only the total nitrogen deposition (the sum of oxidised and reduced road nitrogen depositions plus background deposition rate) has been reported in the ES in compliance with the DMRB assessment approach.</p>	
6.	Noise and Vibration	
7.	Biodiversity	
7.1.	Atkins provided a package of information to NE, including M5 Junction 10 Improvement Habitats Regulations Assessment (HRA) Screening Report (16/12/19) (report reference GCCM5J10-ATK-EBD-XX-RP-LE-000001-C01) and M5 J10 Improvement Scheme NE Consultation (November 2020) (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01). This document provided an	Agreed via email 16.04.2021

Matter Reference number	Position	Date and method of agreement
	<p>overview of the desk study and surveys undertaken to September 2020; identified any limitations encountered; summarised the results of the desk study and survey work and provided a preliminary valuation for each biodiversity resource. It also discussed proposed further survey work and posed specific questions to NE (Email sent 02.12.2020).</p> <p><u>NE Response</u></p> <p><i>NE agreed on the bat survey work presented to them at that time; the approach to great crested newts; and the proposed approach to address some of the older survey data.</i></p>	
7.2.	<p><u>NE Comment</u></p> <p><i>NE noted reference to designated sites, in particular the Severn Estuary Ramsar/SPA/SAC. NE would caution against screening this site on distance alone (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>Atkins have considered the distance between the Severn Estuary Ramsar/SPA/SAC and the Scheme but have also taken into account functional linkage between the Scheme and the designated site and potential for air quality impact pathways. We concluded a potential functional linkage between the Scheme and the qualifying feature populations of migratory fish within the River Chelt. Further consideration has been given to recreational impact pathways.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects as a result of recreational impacts to the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out.</i></p>	Agreed via email on 09.11.2022.
7.3.	<p><u>NE Comment</u></p> <p><i>We previously drew attention to the issue of Functional Linkage for the Severn Estuary SPA Wild Birds. NE has commissioned a report, currently unpublished, "Identification of land with proven or possible functional linkages with the Severn Estuary SSSI/SPA – Phase 5 (Gloucestershire and Worcestershire)" (Link Ecology). From our understanding of the report, we would conclude that significant effects on functionally linked land may be screened out though the report shows that such land lies much closer to the project area than the SPA itself (Planning Consultation, 15.02.2022)</i></p> <p><u>Atkins Response</u></p>	Agreed via email on 09.11.2022

Matter Reference number	Position	Date and method of agreement
	<p>This unpublished report was provided by NE previously and has been reviewed and referenced within the HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15).</p> <p>As suggested, significant effects on functionally linked land with regard to wintering and migratory birds has been screened out, and this useful report provided valuable contextual information to strengthen this discussion.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out.</i></p>	
7.4.	<p><u>NE Comment</u></p> <p><i>Chapter 7.7.5 states that a flood compensation area between the M5 and the link road can provide positive environmental benefits. The wetland storage area and proximity to River Chelt suggests the scheme could very well include enhancements to help restore fish habitats for the SAC/Ramsar Site species. We would welcome further investigation here. (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>Atkins identified that the flood storage area (between the M5 and the Link Road) will not be suitable for fish species as the area will be connected to the Leigh Brook through an extensive length of ditch and the Piffs Elm culvert through which fish are unlikely to be able to pass.</p> <p>Detailed mitigation measures for fish are included in the HRA (Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15).</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	Agreed via email on 09.11.2022 and 02.05.2023.
7.5.	<p><u>NE Comment</u></p> <p><i>Functional linkage between the site and the Severn Estuary has been established and it is accepted that mitigation is required. With regards mitigation for fish, please refer to previous comments regarding the HRA and ‘restore’ objectives. With regards to the birds, notified as part of the Severn Estuary SPA, reference should be made to the Phase 5 Functionally Linked Land Report, “Identification of land with proven or possible functional linkages with the Severn Estuary SSSI/SPA– Phase 5 (Gloucestershire and Worcestershire)” (Link Ecology), to ensure that the approach to mitigation is consistent with the detail of the report. This was made available in previous consultations (Planning Consultation, 15.02.2022).</i></p>	Agreed via email on 09.11.2022 and 02.05.2023.

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	<p><u>Atkins Response</u></p> <p>The Link Ecology report was provided by NE previously and has been reviewed and referenced within the HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15).</p> <p>As suggested, significant effects on functionally linked land with regard to wintering and migratory birds has been screened out, and this useful report provided valuable contextual information to strengthen this discussion. No mitigation in respect of wintering and migratory birds associated with the SPA is necessary or has been provided.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out. NE have also confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	
7.6.	<p><u>NE Comment</u></p> <p><i>It has been accepted that the scheme will cause disturbance to both European Eels and river lamprey during construction. Mitigation will need to be considered. Clarification of the content of the Construction Environmental Management Plan (CEMP), to cater for these species would be beneficial and necessary for the HRA, and would support the conclusion to screen out these species (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>Likely Significant Effect in relation to migratory fish using functionally linked habitat within the River Chelt has been identified in the HRA Screening. Migratory fish were therefore taken through to Appropriate Assessment, where detailed mitigation measures are proposed to ensure no effect on site integrity. Further information is included in the HRA ((Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)).</p> <p>The Register of Environmental Actions and Commitments (REAC) includes the detailed mitigation measures.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	Agreed via email on 02.05.2023.
7.7.	<p><u>NE Comment</u></p>	Agreed via email on 10.03.2023.

Matter Reference number	Position	Date and method of agreement
	<p><i>A connection between the River Chelt and the Severn Estuary has been mentioned, along with features of the Severn Estuary. Chapter 7.5.17 accepts that these habitats exist alongside the M5 motorway. A bridge over the river is proposed – Chapter 7.6.15 states that bridge structure will avoid direct impacts to the river, ensuring fauna can continue to move through the river. No direct loss of river habitat is proposed, which is welcomed. With regards to the bridge, consideration should be given to a green bridge to help with habitat connectivity (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u> The Link Road will be carried over the River Chelt by way of a clear span bridge structure. Landscape planting along the verges of this road will provide wildlife corridors north/south and the clear span structure over the River Chelt will ensure that this river will remain as an important wildlife corridor.</p>	
7.8.	<p><u>NE Comment</u></p> <p><i>The report has ruled out a hydrological connection to Coombe Hill Canal SSSI. It should be noted however, that there is a hydrological connection between the River Chelt and Coombe Hill Canal SSSI and Coombe Hill Meadows at times of flooding (when flow is reversed/backed up and water floods from the River Chelt up onto the SSSI) (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u> This information has been added into the baseline section of the ES to inform any potential impacts.</p>	Agreed via email on 10.03.2023
7.9.	<p>Atkins provided NE with an updated HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document TR010063 - APP 6.15) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)).</p> <p><u>NE Response</u> <i>NE agree with the conclusion that likely significant effects as a result of recreational impacts to the Cotswold Beechwood SAC and the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out.</i></p>	Agreed via email on 09.11.2022 and 02.05.2023.

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	<p><i>Comments from NE's freshwater team were received on 30.11.2022. Overall, NE agree that the conclusion of no adverse effects on the integrity of the Severn Estuary can be achieved, however a number of points were raised which have been addressed through amendments to the SIAA.</i></p> <p><i>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	
7.10.	<p><u>NE Comment</u></p> <p><i>It is noted that the land within the red line boundary is 2km north and south of the highway. We would question how much net gain can be delivered within this land (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>This refers to land within the redline boundary that extends approximately 2km north of the works area and 2km south of the works area along the verges of the M5 motorway. In these areas, the only works that will take place are the installation of signage which will require only minor vegetation clearance. Signage locations can be micro sited to avoid/minimise ecological impacts. These small-scale works are consistent with routine highway maintenance works. The results of desk study and field surveys here would not have any bearing on the impact assessment for the Scheme, and these areas have been excluded from assessments to inform the ES. Pre-construction surveys of the discrete signage locations and working with the contractor to micro site locations where appropriate to avoid or minimise ecological impacts will be undertaken, which is considered to be proportionate. The entirety of these areas are assumed to be retained as they are currently. Net gain is therefore not anticipated from these areas.</p>	Agreed via email on 10.10.2022.
7.11.	<p><i>NE agree with the level of bat survey effort in relation to trees.</i></p>	Agreed via a Teams meeting on 03.11.2022.
7.12.	<p>Atkins provided information about an area of lowland meadow priority habitat to NE, including the broad approach to compensating for loss of a small area of this habitat.</p> <p><u>NE Response</u></p> <p><i>NE agreed with the broad proposals.</i></p>	Agreed via email on 14.11.2022. The additional minor comments provided from NE have been responded to/addressed.

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7.13.	<p>Atkins undertook Advanced Licence Bat Survey Techniques (ALBST) in May 2021. A further round of ALBST was originally scheduled for July 2021, but this was not undertaken and no further ALBST have been undertaken. This is because the May 2021 session was subject to severe limitations and the key aim of the surveys was not met. These limitations persisted into July and continue to persist. Based on these limitations, and the resulting limited quality of data that would be gleaned from further ALBST, and weighing this up against the high costs of the surveys and impacts to individual tagged bats, the decision not to undertake further ALBST is fully justified.</p> <p><u>NE Response</u> <i>NE confirmed that this justification seems reasonable, and advised that Atkins should document any alternative surveys undertaken to address lack of ALBST, or any remaining gaps in knowledge as a result of not undertaking ALBST.</i></p>	Agreed via a Teams meeting on 03.11.2022.
7.14.	<p>Atkins provided NE with a document outlining survey work proposed/currently underway in 2022. The document also reviewed the study areas and ecological zones of influence of all biodiversity resources, for NE's comment. The information was sent via email on 10.06.2022.</p> <p><u>NE Response</u> <i>NE responded that they agree with the proposal not to survey the stretches of the M5 verge outside of the highway alignment, but within the Order limits. These extend approximately 2 km north and 2 km south of the highway alignment.</i></p>	Agreed via email on 10.10.2022.
7.15.	<p><u>NE Comment</u> NE provided Atkins with the LoNI in respect of badgers (via email on 31.03.2023)</p> <p><u>Atkins Response</u> Atkins notes the caveats within the LoNI, which are agreed to.</p>	Agreed via email on 31.03.2023.
7.16.	<p><u>NE Comment</u> NE provided Atkins with the LoNI in respect of dormice (via email on 14.04.2023)</p> <p><u>Atkins Response</u> Atkins notes the caveats within the LoNI, which are agreed to.</p>	Agreed via email on 14.04.2023.
7.17.	<p><u>NE Comment</u> <i>NE stated a named ecologist must be listed on the draft bat licence application including their experience (Teams Meeting on 5.12.2022).</i></p>	Agreed via Teams meeting on 26.04.2023

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	<p><u>Atkins Response</u></p> <p>Named Ecologist details were sent to NE on 31.03.2023 via email. In a Teams call on 26.04.2023 NE stated that there were still some queries with regard to the experience of the named ecologist proposed. It was agreed that this need not be addressed now, but will be caveated in the LoNI i.e. the LoNI will include a condition that a named ecologist with suitable experience will be included in the final licence application.</p>	
7.18.	<p><u>NE Comment</u></p> <p><i>Habitat valuation (e.g. 7.4.3 and Table 7.9). We have reviewed these sections and can confirm that we agree with the rationale for classifying the various sites and habitats as being of international, national, regional or local importance (comments on the Biodiversity chapter received 23.06.2023).</i></p>	Agreed via email on 23.06.2023
7.19.	<p>Atkins set out a proposed scope of bat surveys to inform the final bat licence application in an email on 05.05.2023. This information was resent via email on 17.07.2023.</p> <p>The expectation is that all structures/trees impacted by the Scheme (i.e. all structures/trees either demolished/felled or subject to disturbance that would affect use by bats) are surveyed in full as per the BCT Bat Survey Guidelines (2016). The current expectation is that construction will begin in April 2025, and submission of the final bat licence will be in late 2024/early 2025. Therefore 2024 would be the survey season closest to submission of the final bat licence.</p> <p>On this basis, for structures and trees that would be impacted by the Scheme (i.e. lost or subject to disturbance that would affect use by bats, and which are therefore included in the bat licence):</p> <ul style="list-style-type: none"> - For structures/trees surveyed in full in 2019, 2020, 2021 or 2022 (or over a combination of these years) then, assuming confirmation via a site visit that there has been no significant material changes to the structure/tree the expectation would be for a single top up survey to be completed in 2024. - For structures/trees surveyed in 2023 (or over a combination of previous years, with at least one survey in 2023) then the expectation would be for a walkover survey in 2024 to confirm that there has been no significant material changes to the roost/potential roost. - For structures/trees surveyed in 2024 (or over a combination of previous years, with at least one survey in 2024) then the expectation would be for a general site walkover survey only, within 3 months prior to application submission to ensure that conditions have not changed since the most recent survey was undertaken, as per the requirement of the Method Statement. 	21.07.2023

Matter Reference number	Position	Date and method of agreement
	<ul style="list-style-type: none"> - In the event that significant material changes to the roost/potential roost are noted then the structure/tree would be re-assessed in terms of its suitability for supporting roosting bats, and full survey effort undertaken based on the re-assessed suitability level. - In the event that access is not possible to structures/trees located outside of the Order limits but within the disturbance zone of influence, then the approach will be to review, and potentially refine the disturbance impact, as it may be possible during the detailed design stage for impacts to be avoided. In the event that the impact cannot be avoided, then mitigation will be implemented to reduce the impact as far as possible, and compensation has already been incorporated to compensate for potential roost loss as a result of disturbance impacts. <p><u>NE Response</u> <i>I have reviewed the survey proposal detailed in your email below (17th July 2023). NE are satisfied with the proposed approach to surveys to inform the final bat licence application given the information available at this stage. (Email, 21.07.2023).</i></p>	
7.20.	<p><u>NE Comment</u> <i>River Chelt (e.g. 7.7.6 and 7.8.36). We note that these sections still contain some arguments regarding 'dilution' that we have previously advised are unsound (see our comments on the Habitats Regulations Assessment) (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Having looked into this, we can confirm that the dilution arguments in the Biodiversity Chapter align with the HRA, which NE have approved. The dilution argument is still made with regard to distant downstream designated sites.</p>	Agreed via email on 12.09.2023
7.21.	<p><u>NE Comment</u> <i>Biodiversity Net Gain (e.g. 7.4.66 and 7.12.8). We note that an older version of the metric has been used (3.0 whereas the current version is 4.0). If you intend to continue using this version we would recommend fully justifying why. As mentioned above we will be happy to comment on the appendix if it would assist (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Footnote 83 states: Biodiversity Metric 3.1, an update to the previously published biodiversity metric 3.0, was published on 21.04.2022, and Biodiversity Metric 4.0 was published in March 2023. However, for this Scheme, given that metric 3.0 was used to undertake an initial BNG feasibility</p>	Agreed via email on 12.09.2023

Matter Reference number	Position	Date and method of agreement
	<p>assessment at the start of 2022, version 3.0 will continue to be used, and has been used to undertake the calculations. This is in line with advice from NE (NE Joint Publication JP039 (April 2022) Biodiversity Metric 3.1 Frequently Asked Questions).</p> <p>It is considered that this has already been fully justified.</p>	
<p>7.22.</p>	<p><u>NE Comment</u> <i>Habitat balance (e.g. table 7.13 and 7.8.40). We have the following minor suggestions:</i></p> <p><i>a. can you state the number of scattered trees that will be lost as well as those that will be gained?</i></p> <p><i>b. the description of the ditch compensation is a bit unclear – especially what exactly is meant by ‘sown with wet grassland’</i></p> <p><i>c. ‘introduced scrub’ needs a definition (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Suggested amendments have been made (number of scattered trees lost/gained has been included; text amended to ‘seeded with a wet grassland seed mix’; introduced scrub has been amended to ‘introduced shrub’ and defined as: ‘vegetation dominated by shrub species that are not locally native.</p>	<p>Agreed via email on 12.09.2023</p>
<p>7.23.</p>	<p><u>NE Comment</u> <i>The consultation states that there will be no significant impact on biodiversity other than the loss of a grass strip adjacent to the new road. We agree that all be no direct impact. But it is important to investigate potential indirect impacts. For example recreational pressure has been identified as a possible indirect impact on the Cotswold Commons and Beechwoods SAC. Cheaper and more convenient travel could elevate this further (Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane 23.06.2023).</i></p> <p><u>Atkins Response</u> The Scheme description has been updated in the HRA documents to include the bus lane. The conclusion in the HRA has not needed to change i.e. it is appropriate to rely on the HRA of the planning applications for the unlocked housing developments, which will need to comply with existing planning policies, to ascertain whether the road improvement will have an adverse effect on the integrity of the European Sites.</p>	<p>Agreed via email on 12.09.2023</p>
<p>8. Road Drainage and the Water Environment</p>		

Matter Reference number	Position	Date and method of agreement
9. Landscape and Visual		
	<p><u>NE Comment</u> We note that the scheme lies within the setting of the Cotswolds AONB. The views of the Cotswolds Conservation Board should be sought. Paragraph 176 of the National Planning Policy Framework (NPPF) outlines the 'great weight' to be given to the conservation and enhancement of the landscape and scenic beauty of AONBs. It continues by stating that development within the setting of AONBs "should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas"(Planning Consultation, 15.02.2022).</p> <p><u>Atkins Response</u> The Cotswold National Landscape Board has been consulted and conclude that the Scheme is not likely to affect the Area of Outstanding Natural Beauty (AONB) and are not required to be consulted on further. The AONB will remain as a receptor within the Landscape and Visual Impact Assessment (LVIA).</p>	Agreed to move to matters agreed via email on 16.08.2023
10. Geology and Soils		
10.1	<p><u>NE Comment</u> It is noted that there are no nationally or locally important geological features within the footprint of the scheme. Most of the engineering will involve raising embankments rather than excavating cuttings. The footprint of the scheme covers ground underlain by the Lower Jurassic Charmouth Mudstone Formation and the Pleistocene Cheltenham Sand and Gravel Formation. These may both be temporarily exposed in excavations for the balancing ponds and flood relief zone. However, the currents plans that have been provided (Chapter 2 Appendices) are not detailed enough to set out the design and method of construction for these features. If the excavations for the ponds go to any depth (greater than 2 m) then there may be value in having a watching brief in order to record and collect from these temporary exposures (Planning Consultation, 15.02.2022).</p> <p><u>Atkins Response</u> Further detail on construction will be provided as part of the ES. A watching brief will be provided as part of the proposed mitigation.</p>	Agreed to move to matters agreed via email on 16.08.2023
11. Cultural Heritage		

Matter Reference number	Position	Date and method of agreement
12. Materials and Waste		
13. Population and Human Health		
	<p><u>NE Comment</u> <i>NE advises that consideration be given to ensuring protection and enhancement of public rights of way and National Trails, as outlined in paragraph 98 of the NPPF. Recognition should be given to the value of rights of way and access to the natural environment in relation to health and wellbeing and links to the wider green infrastructure network. The proposal should seek to link existing rights of way where possible and provides for new access opportunities (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u> The layout and design for facilities for pedestrians and cyclists are shown in the General Arrangements Plans (application document TR010063 – APP 2.9). The scheme introduces a number of additional WCH assets which will be available for use in the operational phase. With these additional assets, the facilities available for use by WCH will be enhanced and have greater connectivity.</p> <p>The Scheme design includes an active travel corridor along the length of the Link Road and the A4019 (within the extents of the Scheme). This will provide traffic free space for cyclists and pedestrians with the objective of reducing car journeys through the Scheme and thereby reducing noise and air quality impacts, as well as providing exercise opportunities for people.</p> <p>The Link Road has a segregated cycleway (4m in width) and footway (2m in width) all the way along its west side. To the west of the junction, the Scheme will provide a parallel cycle and pedestrian crossing of the B4634, incorporated into the signalised junction, to allow the future continuation of the proposed cycling and pedestrian route into the West Cheltenham Golden Valley Development.</p> <p>The Scheme will include a segregated cycleway (4m width) and footway (2m width) on the northern side of the A4019, which with the exception of a short section of shared use path through Uckington will extend from the junction of the A4019 with Stanboro Lane in the west through to the Gallagher junction at the eastern end of the Scheme. This active travel corridor will provide connectivity for pedestrians and cyclists between north-west Cheltenham and the junction of the A4019 and Stanboro Lane (west of M5 Junction 10). It will tie into an existing shared use path at the eastern end of the Scheme, and an existing footway at the western end.</p>	<p>Agreed to move to matters agreed via email on 16.08.2023</p>

Matter Reference number	Position	Date and method of agreement
	<p>The B4634 will be widened to the south of its existing alignment to allow for the provision of a 2m wide shared use path along the northern verge through to the junction of the B4634 and Withybridge Lane. This will provide a connection between the walking and cycling provision on the Link Road and Withybridge Lane.</p> <p>Bridleway improvements include a WCH underpass beneath the A4019, just to the east of the M5 J10. This will connect bridleway AUC1 (Uckington 1) via a new section of bridleway and footpath to the existing recreational network to the south of the A4019. There will also be the inclusion of an equestrian phase and push button at Uckington Junction linking bridleway AUC14 to The Green in the north.</p> <p>The consideration of Human Health impacts of changes to WCH (not just PROW) as a determinant of health is within the scope of the revised assessment and that a level of significance is being assigned to the effects, using the IEMA guidance from November 2022 to guide the method.</p>	
14. Climate		
15. Assessment of Cumulative Effects		
16. Engineering Design		
17. Draft Development Consent Order		
18. Land		
19. Environmental Management Plan		
20. Construction Traffic Management Plan		

5. Matters Outstanding

5.1. Principal matters outstanding

5.1.1. There are currently no principal matters outstanding between Applicant and NE.

5.2. Matters outstanding

5.2.1. Table 5-1 shows those matters that are outstanding between the parties, including that matters reference number, and the date of the latest position.

Table 5-1 – Summary of matters that are outstanding between parties by topics considered within this SoCG

Matter Reference Number	Position of interested party	Response	Date of the last position
1. Principle of Development			
1.1			
2. Consultation			
3. Assessment of Alternatives			
4. Environmental Impact Assessment Methodology			
5. Air Quality			
6. Noise and Vibration			
7. Biodiversity			
7.1.	NE's key concern with the draft bat licence was around how gaps in the bat roost survey data had been addressed	Atkins produced a Refined Bat Roost Impact Assessment (document	19.07.2023

Matter Reference Number	Position of interested party	Response	Date of the last position
	<p>with NE requiring further justification and clarification on this matter (<i>Teams Meeting on 5.12.2022</i>)</p>	<p>reference – GCCM5J10-ATK-EBD-ZZ-RP-LE) presenting a refining process which has been undertaken to address the gaps in the bat roost survey data as far as possible, such that the Scheme impacts can be more accurately predicted and to provide surety that the Scheme adequately compensates for the predicted impacts, taking a reasonably precautionary approach.</p> <p>The document was sent to NE on 05.12.2022 and comments were received from NE on 20.01.2023 and discussed in a Teams meeting on 27.01.2023.</p> <p>NE identified a discrepancy between establishing known occupancy rates (which are based on a physical site visit and information about the surrounding habitat) and predicted occupancy rates (which are based on aerial imagery and Google street view rather than a physical survey, and information about the surrounding habitat).</p> <p>NE would also prefer that the occupancy rates are established for east and west of the M5 rather than for the four quadrants, and then applied to the four quadrants.</p> <p>The above mentioned document was updated to address these comments.</p> <p>A revised Refined Bat Roost Impact Assessment (document reference –</p>	

Matter Reference Number	Position of interested party	Response	Date of the last position
		<p>GCCM5J10-ATK-EBD-ZZ-RP-LE) was sent to NE on 09.02.2023.</p> <p>Following the meeting on 26.04.2023, a proposed way forward with regard to the bat LoNI was proposed. This was to Issue a heavily caveated LoNI ASAP, which would detail the scope of surveys required to inform the final bat licence application, and which would state that the mitigation and compensation proposed in the draft bat licence would need to be refined based on the results of these surveys. On 30.05.2023 NE rejected this proposal, requesting preliminary bat roost assessments (PBRA) of unsurveyed structures ASAP and update the refined bat roost impact assessment document accordingly, taking into account the results of site visits. On 12.06.2023 Atkins acknowledged NE's position and posed a number of queries to NE.</p> <p>On 16.05.2023 a Further Information Request (FIR) was received from NE in relation to the draft bat licence. Further clarification was provided by NE on 17.05.2023. This clarified that NE's key comment in the FIR was around compensation for low conservation value roosts that will/are predicted to experience temporary disturbance. On 19.05.2023 Atkins provided a response to NE to address this key comment. This included an</p>	

Matter Reference Number	Position of interested party	Response	Date of the last position
		<p>updated Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE) with comments/tracked changes proposing additional bat boxes/features within the compensatory structures. On 18.07.2023 NE responded with some additional requirements in relation to compensation.</p> <p>During the meeting on 19.07.2023 the above workstreams were discussed. Atkins agreed to implement the principles of compensation proposed by NE going forwards. This includes 2 for 1 compensation when using bat boxes to compensate for loss of maternity, hibernation and mating roosts; a slight increase in dimensions for the southern quadrant compensatory structure (i.e. a height in excess of 2.8m and a length and width of 5m or more); installing smaller entrance points for lesser horseshoe bats, to deter greater horseshoe bats; reviewing dimensions of lean-to's at the southern quadrant compensatory structure. Atkins presented the situation with regards to the bat surveys being undertaken in 2023 and the number of structures where surveys will be outstanding. This is as follows: 173 structures within the ZoI (reduced from 296 as a result of design progression resulting in no impacts</p>	

Matter Reference Number	Position of interested party	Response	Date of the last position
		<p>and attenuation from existing features primarily).</p> <p>28 have negligible bat roosting potential (BRP), 44 low BRP, 23 moderate BRP, 5 high BRP, 29 confirmed roost, 44 no survey.</p> <p>95 are fully surveyed, likely to increase by 17 to 112 by the end of 2023 (77%).</p> <p>34 partially surveyed likely to reduce to 17 by end of 2023.</p> <p>44 no survey likely to reduce to 41 by end of 2023. But, most of these are residential properties along A4019 which are being retained and where, on further consideration, impacts can likely be avoided. These would therefore be removed from the bat licence. 7 of these are being demolished.</p> <p>Atkins will update the Refined Impacts Assessment document/draft bat licence application and provide figures following 2023 survey work (which is continuing until end of September). This will use site visit PBRA data for those structures where we have this and desk study data for the small number where surveys are outstanding (using information about similar structures where possible).</p> <p>Timescales/precise details of updates to be agreed.</p>	
7.2.	NE commented that the draft bat licence does not fully consider the cumulative impacts of the adjacent developments such as Elms Park. NE would like more	An additional figure is proposed. This will display M5J10 proposed compensation, as well as the future developments in the local area (with	

Matter Reference Number	Position of interested party	Response	Date of the last position
	<p>information on this, although given that the M5J10 Scheme will come first the emphasis is more on subsequent projects aligning with the M5J10 Scheme (<i>Teams Meeting on 5.12.2022</i>).</p>	<p>masterplans where available and all known bat roosts in these developments), showing how the developments will align. This figure will be supported by additional cumulative assessment information, along with information about communication with the Elms Park project and additional assurances around securing and safeguarding the mitigation measures.</p> <p>This figure was provided to NE on 31.03.2023.</p>	
7.3.	<p>With reference to the mitigation and compensation included in the draft bat licence, NE require further clarification about the lesser horseshoe bat roosts – including the dimensions of roosts being lost and the thermodynamics of these roosts. Further information is also required about the compensation building itself to confirm that it will provide the various microclimates that will be lost.</p> <p>NE raised concerns with the number of bat boxes proposed within the draft bat licence, stating that bespoke features are preferable. NE also raised concerns with the longevity of bat boxes.</p>	<p>Atkins produced a Compensatory Bat Roosts document (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000061) which provides more information about the compensatory roost structures proposed. The purpose of this document is to agree a set of design parameters with NE, to provide assurance that like-for-like or better conditions will be incorporated into the compensatory features. The detailed design of the compensatory structures will be undertaken post-planning, to inform the final bat licence application, and will be based on the agreed design parameters set out in the report.</p> <p>The concern around bat boxes has also been considered in the above mentioned document.</p>	

Matter Reference Number	Position of interested party	Response	Date of the last position
		The document was sent to NE on 13.12.2022. This was resent on 17.05.2023 and 19.05.2023 with minor amendments. See item 7.1.	
8. Road Drainage and the Water Environment			
9. Landscape and Visual			
10. Geology and Soils			
11. Cultural Heritage			
12. Minerals and Waste			
13. Population and Human Health			
13.1			
14. Climate			
15. Assessment of Cumulative Effects			

Matter Reference Number	Position of interested party	Response	Date of the last position
16. Engineering Design			
17. Draft Development Consent Order			
18. Land			
19. Environmental Management Plan			
20. Construction Traffic Management Plan			

Appendices



Appendix A. Pending Matters

- A.1.1. There are some matters which the position of NE is pending upon publication of the full suite of DCO application documents, in particular those relating to the Environmental Statement (ES).
- A.1.2. The Applicant will continue to review matters with the Joint Councils during the examination of the DCO application and discussions will be aided by the Joint Councils being able to review the full suite of DCO application documents on the National Infrastructure Planning website (at the point of submission).

Table A-1 - Matters to be determined between the Applicant and NE

Ref	Matter	Position	Date of the latest position

Appendix B. NE Badger LoNI

Appendix C. NE Dormouse LoNI

Appendix D. NE Sub Screening FCS form dormouse

Appendix E. Atkins response to NE comments on the dormouse license

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