

Date: 22 March 2024
Our ref: 466940
Your ref: M5 Junction 10 Improvements Scheme



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The Planning Inspectorate
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Dear Sir/Madam

NSIP: M5 Junction 10 Improvements Scheme - TR010054 – Relevant Representations

Thank you for your consultation on the above dated and received by Natural England on 09 February 2024.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England confirms that we wish to be registered as an interested party in respect of this Nationally Significant Infrastructure Project. We have submitted a summary of our relevant representations as part of our online registration.

We set out below our full relevant representations in respect of this application.

Yours faithfully


Paul Horswill
Senior Adviser – West Midlands Planning Team

1. Introduction

- 1.1. Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 (NERC Act). Natural England is the statutory advisor to Government on nature conservation in England and promotes the conservation of England's wildlife and natural features.
- 1.2. Natural England is a statutory consultee in respect of environmental information submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017; in respect of plans or projects that are subject to the requirements of the Conservation of Habitats and Species Regulations 2017 (the "Habitats Regulations") which are likely to have a significant effect on European Sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) for the purposes of the EU Habitats and Birds Directives; in respect of proposals likely to damage any of the flora, fauna or geological or physiological features for which a Site of Special Scientific Interest (SSSI) has been notified pursuant to the Wildlife and Countryside Act 1981; and in respect of all applications for consent for Nationally Significant Infrastructure Projects which are likely to affect land in England.
- 1.3. In determining this application, the Secretary of State will be acting as the competent authority for the purposes of the Habitats Regulations. The Secretary of State is also a section 28G authority with specific duties under the Wildlife and Countryside Act 1981 in respect of SSSIs.

- 1.4. Natural England's advice in these relevant representations is based on information submitted by Gloucestershire County Council in support of its application for a Development Consent Order ('DCO') in relation to the M5 Junction 10 Improvements Scheme ('the project'). The project refers to 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.
- 1.5. Natural England has been working closely with Gloucestershire County Council's consultants AtkinsRéalis to provide advice and guidance since April 2021. Prior to the Planning Inspectorate's acceptance of the application on 16 January 2024, Natural England has worked with the developer to develop a statement of common ground in order to develop understanding and resolve outstanding issues.
- 1.6. These relevant representations contain a summary of what Natural England considers the main nature conservation and related issues¹ to be in relation to the DCO application, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.
- 1.7. Part I of these representations provides an overview of the issues and a summary of Natural England's advice. Section 2 identifies the natural features relevant to this application. Section 3 summarises Natural England's overall view of the application and the main issues which it considers need to be addressed by the Secretary of State.
- 1.8. Part II of these representations confirms that there are no matters that require further details, evidence or assessment on this occasion. It also lists the matters that must be secured by requirements in the DCO.
- 1.9. The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

PART I – SUMMARY OF NATURAL FEATURES AFFECTED BY THE APPLICATION AND NATURAL ENGLAND'S OVERALL POSITION

1. The natural features potentially affected by this application

- 2.1. The Scheme is located within a low-lying, mainly agricultural landscape to the north-west of Cheltenham. The area is dominated by large arable fields, improved grasslands and poor semi-improved grasslands. The dominant arable and grassland habitats are interspersed with pockets of other terrestrial habitats of greater nature conservation value, including broadleaved and mixed woodland, traditional orchard and semi-improved neutral grassland.
- 2.2. The designated sites relevant to this application are:
 - Wye Valley and Forest of Dean Bat Sites SAC
 - Walmore Common SPA/Ramsar
 - Cotswold Beechwoods SAC
 - Severn Estuary SAC/SPA/Ramsar

¹ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

- Coombe Hill Canal SSSI

2.3. The following European Protected Species may be affected by the proposed project:

- Bats
- Great crested newt
- Dormouse

2.4. The following nationally protected species may be affected by the proposed project:

- Badgers

3. The overall position of Natural England

3.1. Natural England considers that the documents presented to the Planning Inspectorate, to support the application for Development Consent, are of satisfactory quality and present an acceptable overview of the impacts on nature conservation issues. We advise that in relation to the nature conservation issues that are within our remit there is no fundamental reason or principle why the project should not be permitted.

3.2. Natural England's headline points are that on the basis of the information submitted:

3.2.1. Air quality - All of the aforementioned designates sites could potentially be impacted by changes in air quality from this motorway improvement project. However a comprehensive assessment has demonstrated that air pollution from road traffic will reduce as a result of this project. We have therefore advised that none of the aforementioned designated sites will be harmed by air pollution from this project.

3.2.2. Recreational pressure - three of the aforementioned designated sites (Cotswold Beechwoods SAC, Severn Estuary SAC/SPA/Ramsar, and Coombe Hill Canal SSSI) are particularly sensitive to increased recreational pressure. Whilst the project itself will not increase recreational pressure, it is unlocking housing developments that are within the zone of influence of these sites. There are already policies and strategic schemes in place to prevent harm from increased recreational pressure on these sites. Furthermore the housing developments that this project is unlocking will be subject to their own impact assessments. We have therefore advised that these three designated sites will not be harmed by recreational pressure arising indirectly from this project.

3.2.3. Wye Valley and Forest of Dean Bat Sites SAC – This SAC is made up of 14 SSSIs in England and Wales. The project is too far away to have an impact on any of these SSSIs (the closest is 21km away). We have therefore advised that the project will not have a likely significant effect on this SAC.

3.2.4. Walmore Common SPA/Ramsar – This designated site is located 17.5km south-west of the project. The agricultural habitats present within the project were initially identified as having the potential to support populations of Bewick's swan which are associated with the SPA. However, during comprehensive bird surveys, no Bewick's swan were identified, and no records of Bewick's swan were provided from a desk study. We have therefore advised that the project will not have a likely significant effect on this SAC.

3.2.5. Severn Estuary SAC/SPA/Ramsar - This designated site is located approximately 47.5km downstream of the project. Notified features include wintering birds and migratory fish. A number of potential impact pathways on these features have been identified:

- Water quality impacts via the release of pollutants from the project into the watercourse network upstream of the Seven Estuary SPA – however this would be eliminated by dilution over the distance of at least 40km that any pollutants would have to travel.

- Impacts on wintering birds – however the habitats within and surrounding the project are not considered to provide a role in maintaining the SPA populations of wintering bird species.
- Impacts on migratory fish (European eel, Atlantic salmon, sea trout and river lamprey) in the River Chelt, which is in the vicinity of the project and is hydrologically linked to the Severn Estuary. A number of potential impacts were identified including a temporary reduction in the extent of functionally linked habitat available in the event that dewatering part of the River Chelt channel is required during construction; disturbance during construction as a result of noise and vibration; injury or mortality to river lamprey ammocoetes if they are present within burrows in the sediment in the event that dewatering of part of the channel is required during construction; and fragmentation as a result of disturbance and pollution, which could result in barrier effects, resulting in fish being unable to disperse or move along the River Chelt. A suite of mitigation measures have been proposed to prevent these impacts.

We have therefore advised that the project will not have an adverse effect on the integrity of the Severn Estuary SAC/SPA/Ramsar.

- 3.2.6. Great crested newts – The project will have impacts on this protected species including habitat loss. We understand that Gloucestershire County Council intend to use the NatureSpace District Licensing scheme to mitigate for these impacts. We have not seen the details of how the scheme will be used to mitigate impacts, but we can confirm that it is appropriate for the scheme to be used in NSIP casework.
- 3.2.7. Bats – The project will have impacts on this protected species including roost loss. Natural England have advised on an appropriate mitigation strategy which involves habitat improvements, sensitive lighting and roost compensation. Natural England have assessed a draft licence application and have issued a ‘letter of no impediment’ confirming that it sees no impediment to granting a licence in the future should the situation on the ground not change.
- 3.2.8. Dormouse - The project will have impacts on this protected species including habitat loss. Natural England have advised on an appropriate mitigation strategy. Natural England have assessed a draft licence application and have issued a ‘letter of no impediment’ confirming that it sees no impediment to granting a licence in the future should the situation on the ground not change.
- 3.2.9. Badgers - The project will have impacts on this protected species including sett loss. Natural England have advised on an appropriate mitigation strategy. Natural England have assessed a draft licence application and have issued a ‘letter of no impediment’ confirming that it sees no impediment to granting a licence in the future should the situation on the ground not change.

PART II: OUTSTANDING MATTERS REQUIRING ATTENTION

4. Further details, evidence or assessment work required

- 4.1. There are no matters that require further details, evidence or assessment on this occasion.

5. Matters that must be secured by requirements in the DCO

- 5.1. We advise that the following mitigation and monitoring requirements are secured by the DCO:
- air quality monitoring (post completion of the project)
 - River Chelt mitigation strategy as outlined in the shadow Habitats Regulations Assessment
 - bat mitigation as outlined in the draft licence application
 - dormouse mitigation as outlined in the draft licence application
 - badger mitigation as outlined in the draft licence application



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