



Historic England

WRITTEN REPRESENTATIONS

ON BEHALF OF THE

**HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND
(HBMCE)**

(HISTORIC ENGLAND)

Application by

**Gloucestershire County Council for an Order granting Development Consent for the M5
Junction 10 Improvements Scheme**

PINS Reference No. TR010063

Interested Party Reference number: M510-SP003

HBMCE Reference No. PL760722

Deadline 1: 18th June 2024

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1. INTRODUCTION

- 1.1. The following statement has been prepared by the Historic Buildings and Monuments Commission for England (HBMCE) more commonly known as Historic England (herein after referred to as "HE") for the Examination of Gloucestershire County Councils application for a Development Consent Order (DCO) for the nationally significant infrastructure project M5 Junction 10 Improvement Scheme. This includes improvements to Junction 10 on the M5, a new road linking Junction 10 to west Cheltenham; widening of the A4019, east of Junction 10; and provision of separate, dedicated footways and cycle lanes for non-motorised traffic along the local roads within scheme limits (the 'Scheme').
- 1.2. HE made representations during the pre-application stage, directly to the Applicant, as part of the consultation exercise pursuant to section 42 of the Planning Act 2008 (as amended). This has taken the form of meetings and letters since 2021 (TR010063/APP/8.6 Statement of Common Ground Table 2-1).
- 1.3. In accordance with the National Policy Statement for National Networks (2024)("NPSNN") which is relevant in the determination of this Scheme, the Scheme should avoid or minimise the conflict between the conservation of any heritage assets affected and any aspect of the proposal. HE has engaged with the Applicant to ensure that the Scheme complies with NNNPS in respect of the conservation of any affected heritage assets. All major matters discussed during this period have now been agreed, please refer to the SoCG.
- 1.4. HE continues to discuss minor issues with the Applicant through the provision of a Statement of Common Ground (SoCG TR010063/APP/8.6) the latest version of which will be submitted at this Deadline.
- 1.5. This Written Representation sets out HE's position as to why we will not be engaging in the Examination Process. Our reasons for this are set out below.

2. ROLE OF THE HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND (HMBCE)

- 2.1. HE was established with effect from 1 April 1984 under Section 32 of the National Heritage Act 1983. The general duties of HE under Section 33 are as follows:
“...so far as is practicable:
(a) to secure the preservation of ancient monuments and historic buildings situated in England;
(b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England; and
(c) to promote the public’s enjoyment of, and advance their knowledge of, ancient monuments and historic buildings situated in England and their preservation”.
- 2.2. HE also has a role in relation to maritime archaeology under the National Heritage Act 2002 and advise Government in relation to World Heritage Sites and compliance with the 1972 Convention Concerning the Protection of the World Cultural and National Heritage.
- 2.3. HE's sponsoring department is the Department for Culture, Media & Sport, although its remit in conservation matters intersects with the policy responsibilities of a number of other government departments, particularly the Department for Levelling Up Homes and Communities, with its responsibilities for land-use planning matters.
- 2.4. HE is a statutory consultee providing advice to local planning authorities on certain categories of applications for planning permission and listed building consent and is also a statutory consultee on all Nationally Significant Infrastructure Projects. Similarly, HE advises the Secretary of State on those applications, subsequent appeals and on other matters generally affecting the historic environment. It is the lead body for the heritage sector and is the Government’s principal adviser on the historic environment.
- 2.5. In light of its role as a statutory consultee, HE encourages pre-application discussions and early engagement on projects to ensure informed consideration of heritage assets and to ensure that the possible impacts of proposals on the historic environment are taken into account. In undertaking pre-application discussions for a scheme such as this, the key issue for HE is ensuring that the significance and the impact on that significance of any heritage assets that may be affected is fully understood; that any proposals to avoid, or mitigate that impact have been considered and can be secured, and that the decision maker is fully informed and can be satisfied that there is clear and convincing justification for any harm with great weight given to the asset’s conservation. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss.

3. WRITTEN REPRESENTATION

- 3.1. As stated in our Section 56 Relevant Representation, HE will not be engaging with the Examination as issues we had raised during the pre-examination period had generally been resolved. Please refer to SoCG (TR010063/APP/8.6) Section 4: Matters Agreed.
- 3.2. HE also stated that once we had reviewed the Archaeological Management Plan (AMP) (TR010063/APP/9.8) which is Annex B.8 of the Environmental Management Plan (EMP) (TR010063/APP/7.3) we may wish to reassess our involvement with the examination.

- 3.3. HE has a few Matters Outstanding (SoCG Section 5 Table 5.1) following the submission of the 1st Iteration of the AMP and the Draft DCO (R010063/APP/3.1). These are:
1. Cross referencing between EMP/ AMP and Draft DCO needed so that the terminology in DCO reflects that in the EMP (SoCG Section 5 Table 5.1, 6.15).
 2. Within requirement 9 of the DCO HE requested that after 'in consultation with the County Archaeologist' in consultation with Historic England, where required, is added. (SoCG Section 5 Table 5.1, 17.1).
 3. Need to check that the wording of Article 38 of the DCO does not contradict the Burial Licence and archaeological remains guidance (SoCG Section 5 Table 5.1, 17.2).
 4. HE previously raised concerns about the lack of an AMP prior to DCO submission. The 1st iteration of this has now been provided. (SoCG Section 5 Table 5.1, 19.2).
- 3.4. HE has concerns about the wording of the DCO, specifically Requirement 9: Archaeology. The documents listed in the Draft DCO do not match the name of the documents within the EMP. Going forward it is essential that the DCO refers to the correct document names to ensure the correct documents are referred to during the mitigation and construction phases of the scheme. This has been recognised and will be reviewed see SoCG Table 5.1 6.15.
- 3.5. HE also requested that we are mentioned within the Draft DCO wording of Requirement 9, so it is clear we will be advising the local planning authorities archaeological advisor, where needed or requested. This ensures HE can provide advice where needed on scientific matters and potentially nationally significant archaeological finds. This has been recognised and will be reviewed see SoCG Table 5.1 17.1
- 3.6. HE noted that it was not clear as to how human remains found during archaeological work would be dealt with. Article 38 of the Draft DCO only refers to burials over 100 years old and does not refer to archaeological remains. This may lead to confusion as to the correct treatment of human remains found during the archaeological mitigation phase of the works. This has been recognised and will be reviewed see SoCG Table 5.1 17.2.
- 3.7. HE will continue to be available to provide any advice to the applicant and the local planning authorities archaeological advisor regarding the EMP Annex B: AMP. We will continue to review and provide comments on the later iterations of the AMP during the examination to ensure the archaeological mitigation is undertaken to the correct standard.
- 3.8. HE will also be available to answer any questions that the EXA has regarding the Historic Environment.
- 3.9. It is our view that the local planning authorities archaeological advisor is best placed to provide the on-going advice on the impacts and mitigation required for the non-designated heritage assets within the scheme area. We will continue to provide advice and guidance to the local planning authorities archaeological advisor and the archaeological consultant and contractor on matters relating to specific scientific advice and to potentially nationally significant archaeology that may be uncovered.