



Edwin Maund
The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

AtkinsRéalis
Nova North
11 Bressenden Place
London
SW1E 5BY

OUR REFERENCE:
M5J10.JC.RD1

YOUR REFERENCE:
TR010063

Date: 9 July 2024

Dear Mr Maund,

Application by Gloucestershire County Council for an Order Granting Development Consent for the M5 Junction 10 Improvements Scheme: TR010063

Submission made by the Joint Councils pursuant to Deadline 2 of the Examination of the M5 Junction 10 Improvements Scheme

Joint Councils' comments on the Deadline 1 submissions made by Gloucestershire County Council

This letter is written on behalf of Gloucestershire County Council (GCC), Cheltenham Borough Council (CBC) and Tewkesbury Borough Council (TBC), together the Joint Councils (20047710). The Joint Councils are the host authorities for the GCC Major Projects Team ('the Applicant') M5 Junction 10 Improvements Scheme Development Consent Order (DCO) ('the Scheme').

GCC is the County Planning Authority, Local Highway Authority, Street Authority, Minerals and Waste Planning Authority (MWPA) and Local Lead Flood Authority (LLFA) for the county of Gloucestershire. CBC and TBC are Local Planning Authorities for the boroughs of Cheltenham and Tewkesbury respectively, where the Scheme is situated within.

Since the submission of our Relevant Representation [RR-039] on 22nd March 2024, the Joint Councils have reviewed updated application documents submitted by the Applicant on 22nd March 2024 regarding Section 51 advice of the Planning Inspectorate and on 10th May 2024 regarding the Rule 9 letter from the Examining Authority (ExA) referenced PD-007. The Joint Councils have been providing comments on the Applicants documents to the Applicant through a Comments Log and have been working with the Applicant to reach agreements on the comments raised. An updated version of the Comments Log was shared with the Applicant on 24th April 2024 and a series of topic specialist meetings were arranged between the Joint Councils and the Applicant from 2nd May 2024 to 20th May 2024 to discuss any unresolved comments. An updated position of the Joint Councils was represented in the Applicant's Statement of Common Ground (SoCG) Joint Councils [REP1-034] and the Joint Councils' Local Impact Report (LIR) [REP1-069] submitted to the ExA at Deadline 1 on 18th

June 2024. The Joint Councils have reviewed submissions made by the Applicant at Deadline 1 on 18th June 2024 including:

- Updated Environmental Statement documents:
 - Appendix 8.2 WFD Compliance Assessment (Tracked) [REP1-027]
 - Chapter 8: Road Drainage and the Water Environment (Tracked) [REP1-015]
 - Chapter 12: Materials and Waste (Tracked) [REP1-021]
 - Chapter 9: Landscape and Visual (Tracked) [REP1-017]
 - Chapter 10: Geology and Soils (Tracked) [REP1-019]
 - Chapter 13: Population and Human Health (Tracked) [REP1-023]
 - Chapter 7: Biodiversity (Tracked) [REP1-013]
 - Chapter 14: Climate (Tracked) [REP1-025]
 - 7.4 Register of Environmental Actions and Commitments (REAC) (Tracked) [REP1-031]
- Applicant Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043]

Where updates to the Environmental Statement have been made, the Joint Councils are, in general, satisfied that these updates accurately reflect the outcomes of topic specialist meetings. Similarly, the Applicant's response to our Relevant Representation [RR-039] broadly aligns with what has been agreed during the examination period thus far. Further details of the Joint Councils review of the updated Environmental Statement documents and the Applicant Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043] are provided below.

Updated Environmental Statement documents

The Joint Councils are satisfied that the updates made to the Environmental Statement documents sufficiently address their initial requests. However, the Joint Councils do not agree with one of the updates made to the Appendix 8.2 WFD Compliance Assessment (Tracked) [REP1-027]. Section 4.3.2 of Appendix 8.2 WFD Compliance Assessment originally referred to 'relatively' high stream power but did not provide a value for this. As such, the updates to the Appendix included stream power of 40Wm². This stream power (at bankfull discharge) would not, in our view, necessitate bank protection. If bank protection is indeed needed, the Joint Councils request that this is linked to some other form of evidence (e.g. observed bank erosion in the field) or indicate that bank protection is being provided as a precautionary measure to protect the assets.

Applicant Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043]

The Joint Councils have reviewed the Applicant's Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043]. The Joint Councils' Relevant Representation was submitted to the Planning Inspectorate in March 2024. These Relevant Representations are referenced as RR-039 within the Applicant Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043] submitted at Deadline 1. While the Joint Councils are fully supportive of the need and principle of the Scheme, there were several matters that required attention which were reflected in our Relevant Representation [RR-309].

It should be noted that since the Joint Councils' Relevant Representation [RR-309] was issued in March, a number of the original matters have now been addressed via updates to the Environmental Statement (as outlined above) or through specialist meetings. This is reflected within the Statement of Common Ground (TR010063 - APP 8.2) [REP1-034]. As such, the Statement of Common Ground (TR010063 - APP 8.2) [REP1-034] now supersedes the matters raised by the Joint Councils in the Relevant Representations [RR-039]. Nevertheless, the Joint Councils have reviewed REP1-043, and broadly agree with responses. Where the Joint Councils have further comments on the Applicant's response, these are provided in the Appendix of this letter.

The Joint Councils would like to reiterate their position in support of the Scheme in principle. The Joint Councils will continue to progress the discussion of outstanding matters with the Applicant throughout the Examination.

If you require any further information, please do not hesitate to get in contact via the M5 J10 Joint Councils project team: M5J10JointCouncils@atkinsrealis.com

Yours sincerely,

Lewis Oliver

Lewis Oliver

Associate Planner for and on behalf of The Joint Councils

Cc:

Tracey Birkinshaw, Director of Communities & Economic Development, Cheltenham Borough Council

Nick Bryant, Associate Director – Planning, Tewkesbury Borough Council

Ben Watts, Team Manager – Economy & Strategic Planning, Gloucestershire County Council

Simon Excell, Assistant Director – Planning and Economic Development, Gloucestershire County Council

APPENDIX

Appendix: Joint Councils comments on Applicant Response to Relevant Representations (TR010063 – APP 9.28) [REP1-043]

Applicant Response ref.	Topic	JC Relevant Representation Issue	Applicant Response at Deadline 1	Joint Councils Response at Deadline 2
39.16	Cultural Heritage	The Joint Councils would expect that the DCO application is supported by an Archaeological Management Plan (AMP). The Joint Councils are aware that no consultation on the AMP has been carried out and request an update from the Scheme Promoter on the progress of the AMP. The Joint Councils welcome that an outline LEMP has been requested by the Examining Authority.	An Archaeological Management Plan (AS-038) has been produced and submitted in response to Planning Inspectorate's Rule 9 advice and will be updated as required in the 2nd iteration of the EMP at the Detailed Design stage.	The Joint Councils expected that the AMS would be updated with information on additional geophysical survey and the location of any trial trenches which has not yet been addressed.
39.22	Transport Assessment, Highways and Design	The Joint Councils are pleased to see the inclusion of a detailed Walking, Cycling and Horse-Riding Assessment and Review (WCHAR) and a full Transport Assessment in the DCO application.	The Applicant welcomes the Joint Councils comment about inclusion of a detailed Walking, Cycling and Horse-Riding Assessment and Review (WCHAR) and a full Transport Assessment in the DCO application.	The Joint Councils would like to see some high-level plans setting out the cycle network with the opportunities listed within the WCHAR report identified. It is noted that good pedestrian and cycle infrastructure provision is included in the extents of the Scheme itself, ideally additional buffers should be provided as highlighted in the detailed comments provided. It would be useful to have a clear strategic cycle network plan presented. The Central Severn Vale Cycling and Walking Infrastructure Plan (CSV LCWIP) and the principles of the Connecting Cheltenham report (2019) should be considered, to clearly demonstrate where the missing links are and how the Scheme will support the delivery of improved connectivity for sustainable modes. A clear plan setting out the sustainable transport provision for all modes adjacent and through the Scheme would be beneficial e.g., bus, cycle and pedestrian. The Joint Councils would like a summary plan of the movements and how all modes will be provided to/through the local development sites. There are missing links and therefore these need to be clearly identified with an understanding of future opportunities around delivery of these for example, west towards A38 Coombe Hill along the A4019. The Tewkesbury Rd corridor becomes more urban focussed as you approach Cheltenham centre and therefore, the design approach needs to reflect this in the approach to pedestrian and cycle infrastructure. Rather than capacity improvements continuing to be prioritised, pedestrian and cycle provision needs to be the design focus. To the west, between Coombe Hill and J10, the cycle provision is shared use and does not connect with the existing cycle infrastructure connecting Tewkesbury along the A38. The Joint Councils would like to understand how this could be addressed in the Scheme design. Sustainable modes should be considered up front in providing a complete network linked to the identified development sites to the west of Cheltenham. It is recommended the information within the Transport Assessment and WCHAR reports is summarised taking account of the detailed
39.23	Transport Assessment, Highways and Design	The Joint Councils are in full support of the scheme in the context that it provides the necessary infrastructure to deliver the identified Sustainable Growth to the West of Cheltenham.	The Applicant welcomes that Joint Councils are in full support of the Scheme in the context that it provides the necessary infrastructure to deliver the identified Sustainable Growth to the West of Cheltenham.	
39.26	Transport Assessment, Highways and Design	Furthermore, the existing network constraints will be resolved to allow a clear hierarchy, routing and network management. This will help manage both local and national highway networks in both existing and future scenarios.	The Applicant welcomes the Joint Councils view that the existing network constraints will be resolved with the Scheme to allow a clear hierarchy, routing and network management to help manage both local and national highway networks in both existing and future scenarios.	
39.27	Transport Assessment, Highways and Design	The Joint Councils recommended that the information within the Transport Assessment and WCHAR reports be summarised taking account of the detailed comments provided separately to the Scheme Promoter, as part of the ongoing negotiations.	Please see section 12 (summary and conclusions) of the Transport Assessment that was submitted to the Planning Inspectorate on 22 March (AS-029) in response to their s51 advice. The Statement of Common Ground with the Joint Councils, submitted at Deadline 1, has been updated to reflect the ongoing discussions in relation to the matters which are outstanding and will continue to be refined as discussions continue throughout Examination.	

Applicant Response ref.	Topic	JC Relevant Representation Issue	Applicant Response at Deadline 1	Joint Councils Response at Deadline 2
				comments provided separately. Understanding the relationship of the future year scenarios and the development phasing will help to support sustainable transport provision.
39.29	Draft DCO	Street works – Paragraph 4.36 of the Explanatory Memorandum to the draft DCO does not explain why Article 11 of the draft DCO has to depart from the model provisions in that it authorises interference with any street within the Order limits, rather than just those specified in Schedules 3 and 4 of the draft DCO.	<p>The Applicant does not consider it necessary to justify departing from the model provisions which do not persist as precedent against which future Orders are to be decided.</p> <p>The approach taken by the Applicant is consistent with many highways DCOs, being A417 Missing Link Order 2022, A47/A11 Thickthorn Junction Order 2022, A57 Link Roads Order 2022, A47 Wansford to Sutton Order 2023. A428 Black Cat to Caxton Gibbet Order 2022, A12 Chelmsford to A120 Widening 2024, A47 Blofield to North Burlingham Order 2022, A38 Derby Junctions Order 2023, [and M3 Junction 9 Order 2024].</p> <p>The purpose of article 11 is to grant the power to go into the street and carry out works, thus removing the need to obtain a separate section 50 licence under the New Roads and Street Works Act 1991.</p> <p>The purpose of Schedules 3 and 4 is not to detail all those streets required to be subject to the power contained in article 11. They each have a separate use and function.</p> <p>Schedule 3 has various uses, but its principal use is to relate to article 14 which is to classify roads as well as instigate traffic regulation measures over certain stretches of road. Schedule 4 lists those streets and private means of access being permanently stopped up and, through the use of separate parts, sets out those examples where substitutes are being provided or not. Neither of these Schedules are intended to constitute the total extent of the streets required to be subject to article 11.</p> <p>The Applicant accepts that in other non-highways DCOs it is more common to see a separate Schedule for those streets subject to this power. For example, see Awel y Mor Offshore Wind Farm Order 2023, Hynet Carbon Dioxide Pipeline Order 2024. However, it should be noted that in these cases it is a private actor who is being granted this power rather than a body which constitutes a local highway authority and so embodies significant knowledge and responsibility over the local highway network regardless.</p> <p>As such, the Applicant does not see its position as being outside the normal drafting for highway DCOs promoted by a highway authority.</p>	The Joint Councils indicate that the Explanatory Memorandum should be updated to reflect the Applicant's response.
39.30	Draft DCO	Consultation on the discharge of DCO Requirements – The Joint Councils require greater involvement in the consultation process prior to discharge of DCO Requirements. The Joint Councils should be named as prescribed consultees in relation to all relevant DCO	<p>The Applicant understands that this request is likely made in the following capacities:</p> <ol style="list-style-type: none"> a. Gloucestershire County Council as local highway authority, minerals and waste planning authority and as having duties relating to drainage and flood risk, heritage assets and archaeology, public rights of way for Gloucestershire. b. Tewkesbury Borough Council as local planning authority for Tewkesbury Borough 	The Joint Councils are in discussions with the Applicant regarding consultation on the discharge of DCO Requirements, in light of the proposal that the Secretary of State will be the body to discharge requirements.

Applicant Response ref.	Topic	JC Relevant Representation Issue	Applicant Response at Deadline 1	Joint Councils Response at Deadline 2
		Requirements in Part 1 of Schedule 2 of the draft DCO.	<p>c. Cheltenham Borough Council as local planning authority for Cheltenham Borough.</p> <p>Currently the DCO, Schedule 2 contains various obligations to consult with the above parties.</p> <p>Requirement 3, 5, 7, 11, 13, 14, 15 require consultation with the relevant planning authority and strategic highway authority.</p> <p>Requirement 8 requires consultation with the Environment Agency and relevant planning authority.</p> <p>Requirement 9 requires consultation with the relevant planning authority, strategic highway authority and County Archaeologist</p> <p>Requirement 12 requires consultation with the Environment Agency, relevant planning authority and strategic highway authority.</p> <p>The Applicant would be willing to discuss this item further and would invite the Joint Council to determine exactly what requirements they wish to be consultees and under which authority they would like this consultation. It is not the case that consultation should be granted to the Joint Councils on areas outside their jurisdiction and statutory function.</p>	
39.31	Draft DCO	Responsibilities on the discharge of DCO Requirements – The draft DCO is unclear on some of the Requirements are required to be discharged by GCC as the County Planning Authority, when for issues such as noise, are the role of CBC and/or TBC as the Local Planning Authorities.	The Applicant understands this comment as questioning why Requirement 14 has the County Planning Authority as the decision maker for this requirement despite noise being a role for the local planning authority. It is for this reason that CBC and/or TBC must be consulted in the preparation of the written details of proposed noise mitigation. However, the Applicant considers that the best authority to discharge this requirement would be the county planning authority so as to co-ordinate approach across local planning authority jurisdictions. This is pending the outcome of discussions between the Joint Councils, National Highways and the Applicant as to the appropriate body for the discharge of requirements in respect of the authorised development generally.	
39.33	Developer Contributions	The Joint Councils are actively engaging with the Scheme Promoter in considering the proposed methodology in respect of developer contributions. Current engagement across the relevant developers and the Local Planning Authorities is ongoing.	The Applicant agrees and welcomes the Joint Councils active engagement with the Scheme. With regard to developer contributions, as stated by the Joint Councils, current engagement across the relevant developers and the Local Planning Authorities is ongoing.	<p>The Joint Councils are in active engagement with the Applicant in respect of developer contributions. CBC and TBC made joint responses on the proposed s106 methodology on 19th October 2023 and 18th December 2023. A further meeting was held between the Joint Councils and the Applicant on 12th June 2024 where a commitment to propose a revised methodology was made, this is anticipated to be available by mid-July. The methodology is needed to support and help justify that any contribution sought:</p> <ol style="list-style-type: none"> 1. Meets the s106 tests, and 2. Meets the severity tests <p>Key to the representations submitted to the Applicant on this matter by the Joint Councils is viability, taking full account of the whole demands for s106/CIL</p>

Applicant Response ref.	Topic	JC Relevant Representation Issue	Applicant Response at Deadline 1	Joint Councils Response at Deadline 2
				<p>arising from development, not just those subject to Joint Core Strategy policy INF7. As the determining local planning authorities, Cheltenham and Tewkesbury will need to ensure that the developer contribution package negotiated appropriately mitigates across developments as a whole to enable sustainable and vibrant communities.</p>