

M5 Junction 10 Improvements Scheme

Applicants Response to Written Representations

TR010063 - APP 9.39

Rule 8 (1) (b)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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Infrastructure Planning Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

Applicant Response to Written Representations

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1. Introduction

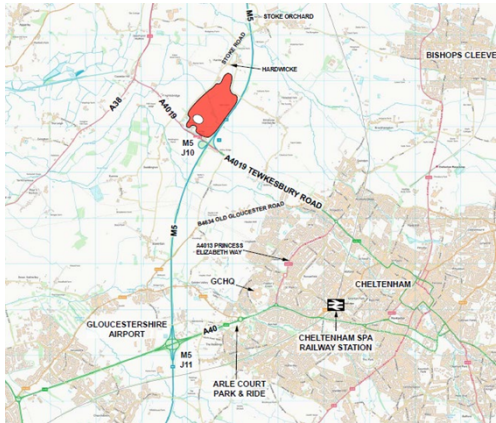
- 1.1.1 The Development Consent Order (DCO) application for the M5 junction 10 scheme was submitted on 19 December 2024 and accepted for examination on 16 January 2024.
- 1.1.2 The purpose of this document is to set out Gloucestershire County Council's response to all the Written Representations (WR) from interested parties submitted to the Planning Inspectorate.

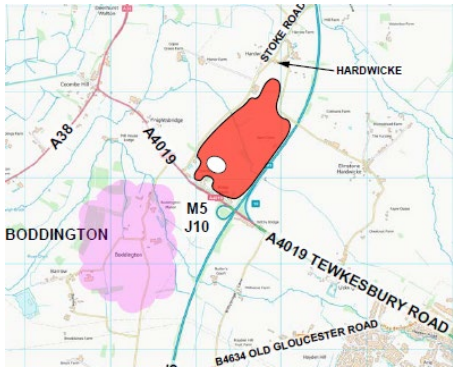
REP1-053 - Peter Evans on behalf of Cheltenham Borough Council Finance and Assets

Response Reference	Written Representation Issue	Applicants Response
Introduction		
53.1	<p><u>Background</u></p> <p>These Observations have been prepared on behalf of Cheltenham Borough Council (CBC) Finance & Assets, who are the landowners of Barn Farm to the north west of M5 Junction 10. This forms part of CBC Finance & Assets written representations to the Development Consent Order (DCO) Pre-Examination process. CBC is supportive of the scheme and are just seeking to have the attenuation pond on the north westside of the scheme relocated.</p>	Noted.
53.2	<p>The Barn Farm site was submitted to the Gloucestershire County Council's (GCC's) "call for sites" for its Waste Plan review. The site could provide land for a new recycling depot to serve CBC and Tewkesbury Borough Council (TBC) areas, plus the potential need for further waste and highways depots for GCC area as a whole. This would be strategically important to serve the three authorities and planned growth in the region.</p>	<p>As outlined in Applicant Response to Relevant Representations Ref 8.1 to 8.3 (REP1-043), the Applicant acknowledges that as a part of the JCS review the Barn Farm site was submitted as a potential new recycling depot under JCS 'call for sites'.</p> <p>The Applicant acknowledges that Barn Farm appears in the Tewkesbury Borough Council HELAA under site reference ELM007 covering an area of 6.3 hectares and has been categorised as potentially developable for housing (119 capacity); and for employment. It also features within a larger 93.45 hectare site referenced ELM011 with the same categorisation (1766 capacity) as ELM007.</p>
53.3	<p>The Barn Farm site was also submitted to CBC, Gloucester City Council and TBC as a potential strategic development site through the JCS review in 2022 and also through the Strategic and Local Plan (SLP) Issues and Options Consultation in Spring 2024. PEP prepared a Site and Access Appraisal Notes to accompany these submissions.</p>	
53.4	<p>The Barn Farm site has also been submitted as part of the Draft Regulation 18 Housing and Economic Land Availability Assessment (HELAA) process and in the December 2023 Tewkesbury HELAA it is identified as potentially developable for housing and employment uses, site reference ELM011. The HELAA stated the site could form part of an option for a strategic site / new settlement with an access from the A4019.</p>	<p>Proposals that were submitted to the Joint Councils during the review of the (JCS), or through the Strategic and Local Plan (SLP) process, do not have any planning status, as acknowledged by CBC Finance and Assets in their Written Representation (REP1-053). Any future development of the Barn Farm site would be subject to its potential allocation through the SLP, which is currently at the early stage of Reg</p>

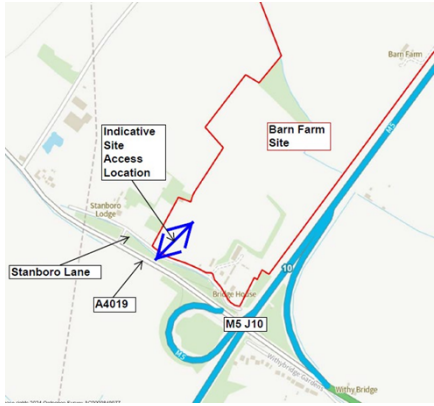
Response Reference	Written Representation Issue	Applicants Response
53.5	In summary, whilst the Barn Farm site does not currently have any formal planning status, it has identified development potential and could provide a crucial piece of strategic infrastructure for CBC, TBC and GCC.	18 (1) Issues and Options consultation, and / or the determination of any subsequent planning application. As is the case with other land with development potential the Applicant has taken a deliberate stance against predetermining the planning processes associated with brining those sites forward. On the basis that the Barn Farm site does not have a formal planning status the Scheme does not consider its potential access requirements as part of the DCO application.
53.6	<u>Aim of Observations</u> The Council, including Finance & Assets is supportive of the improvements to M5 J10 as they will enhance access to Cheltenham and surrounding area from the motorway network, support economic growth and improve connections for non motorised users over the M5 motorway.	Noted.
53.7	The attenuation basin 1 proposed would make it difficult to provide a new junction at an appropriate standard to serve potential strategic and infrastructure development at the Barn Farm site in the future.	As outlined above and in the Applicant's Response to Relevant Representations RR-005, RR-006, RR-007 and RR-034 Ref 8.5 (REP1-048), due to the absence of any formal planning status and the stage at which the SLP was at when the application for the Scheme was submitted, the potential future development of this land has not been considered within the current design and location of attenuation basins. As such any possible junctions off the A4019 to this potential development land have not been considered. This approach has been taken on a Scheme-wide basis where it is not the intention of the Scheme to pre-determine and design for development which does not yet have a planning status.
53.8	These observations have therefore been prepared to explore whether this attenuation pond can be moved or redesigned to enable a suitable junction to be provided in order to access the potential recycling depot and wider development on the Barn Farm site.	As outlined above, the potential development of Barn Farm does not have any formal planning status and therefore has not been considered in the design of the Scheme.
53.9	PEP and CBC would like to discuss if the relocation of the pond could be achieved, with the DCO team.	It is acknowledged that PEP and CBC wish to discuss the relocation of the pond and the Applicant welcomes this engagement, however, as the potential development of Barn Farm has no formal planning status, the Scheme does not consider its potential access requirements as

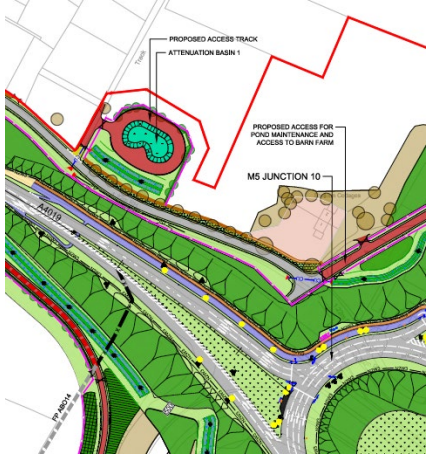
Response Reference	Written Representation Issue	Applicants Response
		part of the DCO application. Moreover, the location of the attenuation pond has been determined as a result of several design considerations. These are set out in further detail below (please see 53.28 to 53.30).
53.10	<p>The Note continues:</p> <ul style="list-style-type: none"> • in Section 2; with a brief description of the site location; • in Section 3; with a summary of the adopted and emerging policy and evidence base in relation to the Barn Farm site; • in Section 4; with a description of the potential site development proposals and site access arrangements; • in Section 5; with an appraisal of the site access and the M5 J10 scheme attenuation pond; and • in Section 6 with our conclusions. 	Noted.
Site Location		
53.11	<p><u>Strategic Location</u></p> <p>The Barn Farm site forms the eastern part of a wider area identified as land north west of M5 J10, HELAA reference ELM011. It is north of Stanboro Lane and the A4019, east of Stoke Road and west of the M5. M5 J10 is at the south east corner of the site. Cheltenham is some 3km to the east of the site. The broad location of the ELM011 land is shown below.</p>	Noted.

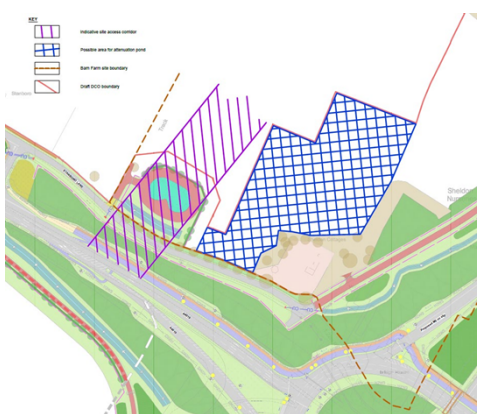
Response Reference	Written Representation Issue	Applicants Response
		
53.12	<p><u>Site Accessibility</u> Stanboro Lane is a cul-de-sac providing access to the site and several residential and commercial properties only. It forms a priority junction with the A4019, some 350m west of M5 J10. The A4019 connects Cheltenham with the M5 and the A38. It has a continuous footway along its northern side and is a main bus route.</p>	Noted.
53.13	<p>Stanboro Lane would not provide a suitable access for a large number of refuse and recycling lorries or allow the future development of the site as suggested through the call for sites process.</p>	<p>The Applicant hasn't considered Stanboro Lane in terms of its use for a large number of refuse or recycling lorries as the design is based on re-using it for its current function i.e. farm access. As the Barn Farm site has no formal planning status for a recycling centre or any other potential strategic development this falls outside the scope of this Scheme and any future planning application for the Barn Farm site would need to assess and propose a suitable access.</p>
Emerging Planning Policy		
53.14	<p>The Barn Farm site is identified in the Tewkesbury HELAA as having development potential. As part of the SLP consultation dated December 2023, the sites submitted as part of the HELAA process have been aligned against a set of six broad development option scenarios, namely.</p>	Noted.

Response Reference	Written Representation Issue	Applicants Response
	<ul style="list-style-type: none"> • Urban concentration • Urban extensions • Urban extensions, avoiding the Green Belt • New strategic settlements • Rural dispersal • Sustainable transport 	
53.15	<p>The Barn Farm site and land to the north west of M5 J10 is aligned with:</p> <ul style="list-style-type: none"> • Development Scenario 4b New Settlement – A comprehensive, master-planned new settlement around Boddington. • Development Scenario 5 Rural Dispersal – distributing growth widely across the rural area. • Development Scenario 6 Sustainable transport – locations along existing and high frequency public transport, walking and cycling routes. 	Whilst the Applicant notes this statement, it is not considered relevant to the Scheme.
53.16	<p>The hamlet of Boddington is broadly illustrated on the image below.</p> 	Noted.

Response Reference	Written Representation Issue	Applicants Response
53.17	A Sustainable Transport Strategy Broad Site Assessment Report was prepared in December 2023 to provide an initial overview of the transport evidence base that supports the SLP.	Noted.
53.18	<p><u>Barn Farm Site Appraisal</u> Based on the assessments carried out in Sustainable Transport Report, the site at Barn Farm / north west of M5 J10 scores well in terms of:</p> <ul style="list-style-type: none"> • existing high quality bus services along the A4019 • key services within a 20 minute cycling; and • proximity to M5 for freight access. 	The Applicant notes the statements made regarding the merits of the Barn Farm Site; however, it does not consider this relevant to the Scheme.
53.19	The assessment as part of emerging planning policy show that the Barn Farm site could be an option for strategic residential and / or employment development, in addition to recycling and waste infrastructure.	The Applicant notes the statements made regarding the Barn Farm Site being an option for strategic residential and/or employment development, however, it does not consider this relevant to the Scheme.
Potential Development at Barn Farm		
53.20	<p><u>Development Proposals</u> Development on the Barn Farm and wider north west of M5 J10 site, could come forward in five to ten years as part of the new SLP and to allow for the completion of the works to M5 J10. However, it could come forward without the improvements to M5 J10.</p>	The potential development of Barn Farm does not have any formal planning status and therefore has not been considered in the design of the Scheme. The assessment of reliance on the Scheme for any proposed development at Barn Farm will need to be undertaken once details of any future planning application are known. In the absence of those detail of the exact development proposed it is not possible to confirm whether this is in fact the case.
53.21	<p>The potential scheme on Barn Farm and wider north west of M5 J10 site could be for a strategic waste and recycling centre and / or a mixed use development comprising:</p> <ul style="list-style-type: none"> • some 60 hectares of residential uses, which could be 2,000 houses on the western side of the site; • 24 hectares of employment on the eastern side of the site; and • community uses, such as a local centre, primary school. 	As is the case with other land with development potential the Applicant has taken a deliberate stance against predetermining the planning processes associated with bringing those sites forward. On the basis that the Barn Farm site does not have a formal planning status, the Scheme does not consider its development potential as part of the DCO application.

Response Reference	Written Representation Issue	Applicants Response
53.22	The future masterplan would allow for a high standard of internal movement networks giving priority to pedestrians and cyclists. The provision of a mix of uses and community facilities within the development reduces the need to travel further afield.	
53.23	Bus services would also be diverted into the site with the level of development and new bus stops, or a bus interchange / mobility hub, could be provided within the site. The level of housing and employment proposed would also support new bus services. A mobility hub would provide public, shared and active travel modes in the same location to promote multiple sustainable transport modes. This would include a car club, e-bike hire, electric vehicle charging and bus stops to make it easier for people to use and switch between sustainable transport modes and meet local business and community needs.	
53.24	<p><u>Site Access</u></p> <p>The scheme would be served from a new signal controlled junction on the A4019 west of M5 J10, in the location broadly shown below.</p>	Noted.
		

Response Reference	Written Representation Issue	Applicants Response
53.25	The junction design would be of high standard and consistent with the proposed form of junctions along the A4019 corridor to the east and the M5 J10 improvements. The junction would include pedestrian and cycle links to / from the site the opportunities for controlled pedestrian/cycle crossings.	Noted.
53.26	The junction would provide sufficient capacity for future base traffic flows on the A4019 with the M5 J10 scheme in place, and the traffic generated by 2,000 houses and 24 hectares of employment use. It is key to unlocking development on the site.	The potential development of Barn Farm does not have any formal planning status and therefore has not been considered in the design of the Scheme. The assessment of reliance on the Scheme for any proposed development at Barn Farm will need to be undertaken once details of any future planning application are known. In the absence of those detail of the exact development proposed it is not possible to confirm whether this is in fact the case.
Potential Impact of M5 J10 Scheme on Barn Farm Site Access		
53.27	<p data-bbox="331 737 533 769"><u>M5 J10 Scheme</u></p> <p data-bbox="331 774 1223 871">As part of the junction improvement scheme, an attenuation pond is proposed on land to the immediate north west of Stanboro Lane, within CBC Finance & Assets land, as shown below.</p>  <p>The diagram is a site plan showing the layout of M5 Junction 10. It features a central road junction with multiple lanes. To the north-west of the junction, there is a green area labeled 'ATTENUATION BASIN 1' with a red outline. A 'PROPOSED ACCESS TRACK' is shown leading to this basin. To the east of the junction, there is another area labeled 'PROPOSED ACCESS FOR POND MAINTENANCE AND ACCESS TO BARN FARM'. The junction itself is labeled 'M5 JUNCTION 10'. The surrounding area includes green spaces, roads, and some buildings.</p>	Noted.

Response Reference	Written Representation Issue	Applicants Response
53.28	This attenuation pond would restrict the ability to provide a suitable junction to serve the recycling centre or strategy residential / employment development on the Barn Farm site in the future.	<p>The Applicant understands that the future development of the Barn Farm site, along with any associated junction, does not have any planning status at present. The Applicant therefore has no requirement to consider the potential future access in this location in the design of the Scheme.</p> <p>Furthermore the Applicant is not aware of any interest of CBC in the land where the alternative location of the attenuation basins proposed, based on the Land Plans (REP1-002) and the Book of Reference (REP1-009).</p> <p>Notwithstanding the above the location of the proposed attenuation basin has been carefully considered during the design of the scheme due to the existing levels of Stanboro Lane and the adjacent land. The Applicant considers that the design of the drainage system would not function as required should the basin be moved further to the east due to the pre-existing level of land in this location.</p> <p>Regarding the suitability of the indicative access route shown, the Environmental Masterplan, sheet 5 (APP-027), demonstrates that there is an area of the Priority Habitat (lowland meadow) along the length of Stanboro Land adjacent to the attenuation basin. This would be lost if this proposed access was created.</p>
53.29	CBC Finance & Assets are supportive of the overall scheme but wish to explore alternative options for locating the attenuation pond.	
53.30	PEP has looked at the Barn Farm site access proposals alongside the attenuation pond and indicate below an alternative option to relocate the pond to the east within the DCO boundary and CBC Finance & Assets land. This is considered feasible in principle.	
		
Conclusion		
53.31	The Council and as landowners are supportive of the improvements to M5 J10 as they will enhance access to Cheltenham and surrounding area from the motorway network, support economic growth and improve connections for non motorised users over the M5 motorway.	The Applicant welcomes the support from the Council and landowners to the improvements to M5 J10 and the benefits it will provide in terms of enhancing access to Cheltenham and surrounding area, supporting economic growth and improving connections for non motorised users over the M5 motorway.
53.32	Whilst the Barn Farm site does not currently have any formal planning status, it has identified residential and employment development potential	Noted. Please see responses 53.20 to 53.23 above.

Response Reference	Written Representation Issue	Applicants Response
	and could provide a crucial piece of strategic infrastructure for CBC, TBC and GCC.	
53.33	A junction to Barn Farm is achievable in principle with the new J10 improvements, but attenuation basin 1 proposed would make it difficult to provide a new junction at an appropriate standard to serve any potential waste / recycling or strategic development at the Barn Farm site in the future.	
53.34	This Note has provided an alternative area to locate the attenuation pond that would maintain sufficient land to provide an access to the Barn Farm site. In principle a relocated attenuation pond 1 to the east could continue to serve the necessary drainage function.	Noted. Please see responses 53.28 to 53.30 above.
53.35	The landowners wish to work with the M5 J10 project team to seek to agree an appropriate alternative location and design for the attenuation pond.	The Applicant met with CBC to discuss the attenuation pond and access proposals on 09 July 2024 and will continue to engage with CBC, as has been outlined above, the location of the proposed attenuation pond has been carefully considered during the design of the Scheme (please see responses 53.28 to 53.30 above)

REP1-054 - Peter Evans Partnership on behalf of Cheltenham Borough Council Finance and Assets

Response Reference	Written Representation Issue	Applicants Response
54.1	These comments and attached note have been prepared on behalf of Cheltenham Borough Council (CBC) Finance & Assets, who are the landowners of Barn Farm to the north west of M5 Junction 10. The landowners are supportive of the improvements to M5 J10 as they will enhance access to Cheltenham and surrounding area from the motorway network, support economic growth and improve connections for non motorised users over the M5 motorway.	Noted.
54.2	Whilst the Barn Farm site does not currently have any formal planning status, it has identified residential and employment development potential and could provide crucial strategic waste / recycling infrastructure for Cheltenham Borough Council, Tewkesbury Borough Council and Gloucestershire County Council.	Please see the Applicant's response to REP1-053 above.
54.3	The attenuation pond 1 proposed would make it difficult to provide a new junction at an appropriate standard to serve potential strategic and infrastructure development at the Barn Farm site in the future.	Please see the Applicant's response to REP1-053 above.
54.4	These comments and attached note have therefore been prepared to explore whether this attenuation pond can be moved or redesigned to enable a suitable junction to be provided to access the Barn Farm site. The landowners wish to work with the M5 J10 project team to seek to agree an appropriate alternative location and design for the attenuation pond.	Please see the Applicant's response to REP1-053 above.

REP1-056 - Gately Hamer on behalf of Ei Group Limited

Response Reference	Written Representation Issue	Applicants Response
56.1	S122 Planning Act 2008 provides that a development consent order may only authorise compulsory acquisition of land if the Secretary of State is satisfied that that the land is both required for the Proposal and that there is a compelling case in the public interest for that compulsory acquisition, namely that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.	Noted.
56.2	Planning Act 2008 – Guidance related to procedures for the compulsory acquisition of land states at para 8 that – <i>The Applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The Applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.</i>	Noted.
56.3	Regarding being able demonstrate that “ <i>all reasonable alternatives to compulsory acquisition have been explored</i> ” we provide a summary of negotiations so the Examining Authority (ExA) can consider and satisfy itself whether private treaty negotiations have been exhausted and that there is no other alternative but to authorise compulsory acquisition powers to allow the scheme to proceed. Meanwhile, in terms demonstrating a compelling case for “ <i>interference with the rights</i> ” of private individuals to peacefully hold and enjoy property free from state interference and that it is “ <i>necessary and proportionate</i> ” we refer back to representations submitted on 22nd March 2024 and also highlight a new matter for the ExA to take into consideration.	Noted.
56.4	To assist the ExA weigh up these matters we set out below an overview of the private treaty negotiations and other thoughts on whether a compelling case has been advanced:	Noted.

Response Reference	Written Representation Issue	Applicants Response
56.5	<p><u>Negotiations and Last Resort Threshold</u></p> <p>As set out in representations submitted on 22nd March 2024, Ei Group were first made aware of the M5 Junction 10 Improvements Scheme (the Scheme) in August 2020 or thereabouts and have repeatedly invited the Applicant and its representatives to identify what land and rights are required so that the parties might engage in meaningful negotiations, with a view to reaching agreement over land required permanently and temporarily and also any rights needed to deliver the Scheme. It was not until 10th November 2023 that the Applicant provided a detailed plan and breakdown of their requirements, but no voluntary agreement was advanced at this time and instead it was said that Heads of Terms (HOTs) would be issued in “the next few weeks”. However, it was not until 8th May 2024 (~6 months after the dDCO was submitted) that the Applicant eventually issued draft HOTs for consideration.</p>	<p>The Applicant has consulted and engaged with Ei Group throughout the development of the Scheme. It was discussed with Ei Group that once sufficient specific detail regarding land and rights requirements through further design refinements were known then further discussions could be had to inform any subsequent Heads of Terms. The Applicant confirms it has provided this further detail to Ei Group in November 2023. The Applicant acknowledges that Ei Group previously stated in Relevant Representation RR-012 reference 12.5 (REP1-043) that the Applicant had not provided detail of the land and rights required for the Scheme. On further discussion with Ei Group, the Applicant understands that Ei Group are now satisfied with the level of detail provided to date considering the stage of design.</p>
56.6	<p>Unfortunately the draft HOTs appear to have been rushed out as part of a box ticking exercise so the Applicant can inform to the ExA that steps have been taken to acquire the required land and rights by agreement. The reality is that the HOTs are not fit for purpose and do not in our opinion constitute “reasonable steps”. We would highlight to the ExA that no monetary offer has been proposed to acquire the permanent land or licence fee offered in connection to the temporary land and so the HOTs are incapable of forming the basis of a contract as there is no consideration. We would also draw attention to the fact that the HOTs are not prepared in accordance with the Government Guidance, which recommends that acquiring authorities should pay compensation as if land has been compulsorily purchased, as the terms do not provide a route to compensation in respect of the diminution in value of retained land and as such Ei Group would be better served waiting to be compulsorily acquired (subject to confirmation of powers) and negotiating compensation after formal notices have been received.</p>	<p>The Applicant has provided Ei Group with details of the land and rights required by the Scheme at the earliest opportunity (November 2023). Similarly, as soon as the Applicant had sufficient detail to feed into the agreement it proposed draft voluntary agreement terms. The Applicant is currently negotiating with Ei Group’s Agent on the terms of this voluntary agreement.</p> <p>When progressing negotiations the Applicant initially proposed key outline terms with all parties before progressing to negotiations regarding the value of compensation. To negotiate and assess an appropriate value of compensation both parties must understand and broadly agree to the principle terms of a voluntary agreement. The Applicant considers this approach, being to establish the key terms of acquisition prior to detailed conversations regarding quantum of compensation to be a reasonable, and well established approach to negotiations in the context of compulsory acquisition.</p> <p>The Applicant has and will continue to comply with Government Guidance and the terms proposed to Ei Group allow for all Heads of Claim that would be considered when assessing Statutory Compensation to be included within the voluntary agreement. The Applicant would encourage Ei Group’s Agent to put forward any</p>

Response Reference	Written Representation Issue	Applicants Response
		<p>aspects of compensation they do not believe will be included within the voluntary agreement to the Applicant's agent during continued negotiations. The Applicant is requesting terms that would not be provided by Statutory Powers and is negotiating a consideration on this basis.</p>
56.7	<p>Ei Group have repeatedly tried to engage the Applicant in negotiations with a view to attempting to agree voluntary terms which might then be legal documented all to allow the Scheme to progress without the requirement to exercise compulsory purchase powers. Unfortunately, voluntary arrangements have not been agreed because terms (which are flawed) were only offered on 8th May 2024. A consequence of the Applicant's indifferent behaviour towards private treaty negotiations is that it is forcing Ei Group to take part in the Examination (and as a consequence incur professional fees on representation) when they would rather agree a deal (subject to terms). This should not be allowed to continue, and we request that consideration is given to awarding costs against the Applicant in connection to fees incurred taking part in the Examination process.</p>	<p>The Applicant has and continues to negotiate terms for a voluntary agreement. As part of its ongoing engagement with Ei Group it has agreed to amend plot 16/5b. This will be reflected in the updated Land Plans (REP1-002) and Book of Reference (REP1-009) to be submitted at Deadline 3.</p>
56.8	<p><u>Compelling Case</u> Ei Group are yet to receive a response to the points raised in representations submitted on 22nd March 2024 and we look forward to receiving the Applicant's comments on these representations.</p>	<p>The detailed design of the Scheme continues along with further clarity from Statutory Undertaker's on their requirements in relation to diverted assets. Through this continued process the Applicant has established that only a private service reconnection to The House in The Tree pub in plot 16/5b will be required. As such the Applicant will be</p>
56.9	<p>Since submitting those representations, further consideration has been had to the land and rights requirements set out in the Land Plans. Following this review, the Applicant should be asked to provide its justification for the requirement for permanent new rights (see Plot 16/5b) to govern a private electricity supply to Ei Group's property only when there is not understood to be an onward supply to any other third party property. The Applicant has been asked to provide a schedule of works concerning this plot and the electricity supply to the building with a view to the parties reaching agreement over temporary voluntary</p>	<p>downgrading the land requirements in this plot from 'permanent acquisition of rights and temporary possession' to 'temporary possession' only to facilitate the works required to ensure The House in The Tree's services are reconnected. Amendments to the Land Plans (REP1-002) and the Book of Reference (REP1-009) with respect to Plot 16/5b will be submitted to the ExA by the Applicant at Deadline 3.</p> <p>The Applicant will be engaging with Ei Group's agent with updated terms for a voluntary agreement which reflect the amendments being</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>arrangements in the form of a licence which should be possible. Unfortunately, it appears that either the Applicant is unwilling or does not have the request detailed design to allow the parties to negotiate a licence and so is seeking to rely on compulsory acquisition powers which to Ei Group seems akin to using a sledgehammer to crack a nut. Further, if the Applicant is going to persist with its request for new permanent rights it should be prepared to justify this to the ExA as Ei Group consider that temporary powers will suffice, but as has been said, the landowner would be perfectly willing (subject to terms) to reach a voluntary agreement with the Applicant to negate the need for powers entirely.</p>	<p>made to the Land Plans (REP1-002) and the Book of Reference (REP1-009) at Deadline 3.</p>
56.10	<p>Overall, the ExA will need to satisfy itself as to whether compulsory acquisition powers and the proposed permanent rights are “necessary and proportionate” given the context that these are believed to be for a private supply and that the landowner is willing to agree a temporary licence (subject to terms) so that whatever works need to be undertaken can be undertaken.</p>	
56.11	<p><u>Request to be Heard at Compulsory Acquisition Hearing (CAH)</u> In accordance the Inspectorate’s Rule 8 letter dated 14th June 2024, Ei Group request to be heard at the CAH if the parties are unable to agreed voluntary arrangements ahead of the hearing.</p>	<p>Noted.</p>

REP1-057 - Osborne Clarke on behalf of National Grid Electricity Distribution (West Midlands) plc

Response Reference	Written Representation Issue	Applicants Response
57.1	This Representation is submitted by Osborne Clarke LLP on behalf of National Grid Electricity Distribution (West Midlands) plc (" NGED ").	Noted.
57.2	NGED remains the licensed distribution network operator under Section 6 Electricity Act 1989 (the " EA 1989 ") for the area in which The M5 Junction 10 Development Consent Order 202* (the " Order ") is proposed to have effect and which was submitted by Gloucestershire Country Council (the " Applicant ").	Noted.
57.3	For the avoidance of doubt, NGED is the relevant statutory consultee and Interested Party for the purposes of the Order. We note that two representations have also been submitted on behalf of National Grid Electricity Distribution; [RR-024] and [RR-029].	Noted.
57.4	Please note that because NGED is the licensed distribution network operator for the purposes of the Order (and so the relevant National Grid Electricity Distribution entity affected by the Order) then the satisfaction of the outstanding matters required by NGED's relevant representation [RR-025] will also satisfy the matters under [RR-024] and [RR-029].	Noted.
57.5	<u>Outstanding matters under [RR-025]</u> At the recent Issue Specific Hearing 2 (" ISH2 ") on 6 June 2024, NGED re-confirmed its relevant requirements in respect of the proposed Order and what would be required before its holding objection would be withdrawn.	Noted.
57.6	These remain as set out in [RR-025] and read as follows: (i) <i>a satisfactory set of protective provisions in favour of NGED has been agreed with the Applicant and these have been included in the Order; and</i> (ii) <i>an asset protection agreement has been entered into between on the parties on terms which are satisfactory to NGED.</i>	Negotiations are ongoing to agree a set of protective provisions for inclusion in the Order and an asset protection agreement.
57.7	In the absence of these two requirements being met, NGED maintains its position that the granting of the Order has the potential to cause serious	Discussions are ongoing with NGED regarding these matters.

Response Reference	Written Representation Issue	Applicants Response
	detriment (for the purpose of Section 127 of the Planning Act 2008) to NGED's assets and interests which form part of its undertaking.	
57.8	<p><u>Update on negotiations</u></p> <p>By way of an update on discussions in respect of Requirements (i) and (ii), we provided the Applicant's legal advisors with copies of both NGED's required form protective provisions and asset protection agreement on 18 October 2023. In response, the Applicant provided its comments on 22 May 2024.</p>	Noted.
57.9	We then subsequently returned our further comments/clarifications to the Applicant in respect of the protective provisions and asset protection agreement on 31 May 2024. We are now awaiting further comments/confirmation from the Applicant on the documents.	The Applicant is preparing return comments to NGED in respect of the protective provisions and asset protection agreement.
57.10	Additionally, as discussed at ISH2, we understand that the Applicant is reviewing the position in respect of Article 47 (Inconsistent planning permissions) of the draft Order. We note that we will need to explore the effect of the final wording of this Article with the Applicant (and may need to include additional provisions in either the protective provisions or asset protection agreement) before NGED withdraws its objection to the Order.	Noted. At Deadline 1, the Applicant provided detailed commentary in respect of the amendments to Article 7 (Planning Permission) and Article 47 (Inconsistent planning permissions) in the dDCO (see Appendix A of the Applicant's written summaries of oral case for Issue Specific Hearing 2 (ISH2) (REP1-047)). The Applicant will continue to liaise with NGED to the extent that any further questions remain.
57.11	Based on the progress made to date, NGED hopes that both Requirements (i) and (ii) will be satisfied by the close of Examination. However, until both matters are resolved, NGED will not be in a position to withdraw its objection.	Noted.

REP1-062 - National Highways Limited

Response Reference	Written Representation Issue	Applicants Response
Introduction		
62.1	This is the Written Representation of National Highways Limited to Gloucestershire County Council's Application for development consent for the M5 Junction 10 Improvement Scheme.	Noted.
62.2	Following the submission of National Highways' Relevant Representation, dated 22 March 2024, National Highways has continued to engage with the Applicant regarding matters raised in its Relevant Representation and to establish an agreed Statement of Common Ground (SoCG) that reflects the current status of agreement between both parties. National Highways has also continued to engage with the Applicant to agree a set of Protective Provisions that are acceptable to National Highways.	Noted.
62.3	Due to the strategic importance of the Applicant's proposals on the Strategic Road Network (" SRN "), National Highways introduced a robust Relevant Representation which outlined National Highways' position in respect to the Applicant's proposals and should therefore act as the primary point of reference. However, this Written Representation has been prepared to highlight any new matters which should be read in conjunction with the Relevant Representation and to address specific questions raised by the Examining Authority at Issue Specific Hearing 1 (Policy, Need and Alternatives) and Issue Specific Hearing 2 (Draft DCO – " dDCO "). This Written Representation should also be read in conjunction with the Principal Areas of Dispute Summary Statement (" PADSS ") that National Highways is submitting for Deadline 1 of the Examination.	Noted.
62.4	National Highways is keen to resolve the concerns raised both within the Relevant Representation and this Written Representation to enable the scheme to proceed, whilst safeguarding the safe and efficient operation of the SRN in accordance with our statutory obligations.	Noted.
62.5	Should it assist the Examining Authority, National Highways will respond to any written questions that the panel may have and is willing to attend	Noted.

Response Reference	Written Representation Issue	Applicants Response												
	an appropriate hearing to detail the impacts of the Authorised Development on the SRN.													
Inconsistencies Between Schedule 1 dDCO and Statement of Reasons														
62.6	The Examining Authority has asked National Highways to provide examples of where it considers the works packages described in Schedule 1 of the draft DCO differ from, or are inconsistent with, the Statement of Reasons.	Noted.												
62.7	Line 26 of the PADSS explains National Highways position in general terms but the table below sets out specific issues that have been identified as a result of National Highways' partial review of the documents. Upon identifying issues with the first four works no.s in the dDCO, National Highways did not continue to review the balance.	The Applicant updated its Statement of Reasons and dDCO to account for consistency errors at Deadline 1. To the extent that it remains relevant to National Highways, the Applicant is engaging with National Highways as to the proposed compulsory acquisition strategy over its land holding.												
62.8	<table border="1"> <thead> <tr> <th data-bbox="344 730 427 754">Work No.</th> <th data-bbox="434 730 577 754">DCO Schedule 1</th> <th data-bbox="584 730 969 754">Statement of Reasons (SoR) (not exhaustive)</th> <th data-bbox="976 730 1171 754">Comment</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 759 427 922">1a</td> <td data-bbox="434 759 577 922">the construction of motorway signage and associated cabling and ducting works;</td> <td data-bbox="584 759 969 922"> <ul style="list-style-type: none"> - Required for the construction of motorway signage and associated cabling and ducting works and associated works - Required for access to the M5 Motorway to provide and maintain advance signage, cabling, ducting and associated works </td> <td data-bbox="976 759 1171 922">'associated works' and 'required for access' introduced in SoR</td> </tr> <tr> <td data-bbox="344 927 427 1098">1b</td> <td data-bbox="434 927 577 1098">the construction of a new northbound exit slip from the M5 to the A4019</td> <td data-bbox="584 927 969 1098"> <ul style="list-style-type: none"> - Required for the construction of a new northbound exit slip from the M5 to the A4019 - New right to construct, use, protect, inspect and maintain the environmental mitigation associated with the construction of a new northbound exit slip from the M5 to the A4019 </td> <td data-bbox="976 927 1171 1098">No reference to environmental works in DCO Schedule 1 on work no.1b.</td> </tr> </tbody> </table>	Work No.	DCO Schedule 1	Statement of Reasons (SoR) (not exhaustive)	Comment	1a	the construction of motorway signage and associated cabling and ducting works;	<ul style="list-style-type: none"> - Required for the construction of motorway signage and associated cabling and ducting works and associated works - Required for access to the M5 Motorway to provide and maintain advance signage, cabling, ducting and associated works 	'associated works' and 'required for access' introduced in SoR	1b	the construction of a new northbound exit slip from the M5 to the A4019	<ul style="list-style-type: none"> - Required for the construction of a new northbound exit slip from the M5 to the A4019 - New right to construct, use, protect, inspect and maintain the environmental mitigation associated with the construction of a new northbound exit slip from the M5 to the A4019 	No reference to environmental works in DCO Schedule 1 on work no.1b.	See response to 62.7.
Work No.	DCO Schedule 1	Statement of Reasons (SoR) (not exhaustive)	Comment											
1a	the construction of motorway signage and associated cabling and ducting works;	<ul style="list-style-type: none"> - Required for the construction of motorway signage and associated cabling and ducting works and associated works - Required for access to the M5 Motorway to provide and maintain advance signage, cabling, ducting and associated works 	'associated works' and 'required for access' introduced in SoR											
1b	the construction of a new northbound exit slip from the M5 to the A4019	<ul style="list-style-type: none"> - Required for the construction of a new northbound exit slip from the M5 to the A4019 - New right to construct, use, protect, inspect and maintain the environmental mitigation associated with the construction of a new northbound exit slip from the M5 to the A4019 	No reference to environmental works in DCO Schedule 1 on work no.1b.											

Response Reference	Written Representation Issue			Applicants Response
	<p>1c</p> <p>the construction of a new southbound exit slip from the M5 to the A4019</p>	<ul style="list-style-type: none"> - Required for the construction of a new southbound exit slip from the M5 to the A4019 - New right for the temporary access for the construction of a new southbound exit slip from the M5 to the A4019 and new permanent right of access to provide, protect, inspect and maintain environmental and ecological mitigation 	<ul style="list-style-type: none"> - Required for the construction of a new southbound entry slip from the A4019 to the M5 - Required for the demolition and clearance of properties at Withybridge Gardens southeast of Junction 10 - New right to construct, use, protect, inspect and maintain the environmental mitigation associated with the construction of a new southbound entry slip from the A4019 to the M5 	<p>Given the above it is unclear if the environmental works are associated with this work no. or not.</p> <p>There is also inconsistency between the rights expressed in the second bullet point for the southbound slip, compared to the northbound slip (above). There does not appear to be any reason for this difference.</p> <p>Introduction of demolition and clearance works in the SoR. Introduction of environmental mitigation. This drafting does match that included for the southbound exit slip.</p>
62.9	<p>National Highways Relevant Representation also contains examples of where the Land Plans appear to be inconsistent with the works no.s in Schedule 1. Whilst National Highways is engaged in discussions with the Applicant about their approach to land take and compulsory acquisition powers generally, a holistic review of the Works Nos, SoR, Works Plans and Land Plans is needed by the Applicant to identify and address all the inconsistencies and inaccuracies.</p>			<p>The Applicant has completed a detailed review of all plots and provided the principles of its proposed acquisition to National Highways.</p> <p>The Applicant has, and continues, to request National Highway's agreement to land acquisition principles. The Applicant considers the land acquisition approach set out to National Highways to be appropriate and reasonable.</p>
<p>Policy Considerations Arising from NPSNN 2024</p>				
62.10	<p>The Application was accepted for Examination before the designation of the 2024 National Policy Statement, however National Highways considers the following paragraphs of the NPSNN 2024 to be relevant to the Application and considers that they be afforded weight by the Examining Authority:</p>			<p>As noted in Section 1.3 of the Applicant's Written Submissions of Oral Case for Issue Specific Hearing 1 (ISH1) [REP1-046], in response to agenda item 2(vi), the Secretary of State, at paragraph 16 of the M3 Junction 9 decision, set out that in the context of that case neither the draft revised NPS nor revised NPS supports a different outcome and didn't give either any material weight. The Applicant suggests that</p>

Response Reference	Written Representation Issue	Applicants Response
		neither would support a different outcome in the present case and as such the NN NPS (2024) should not be given any material weight in this instance.
62.11	Paragraph 4.9: “The [transport] modelling should be proportionate to the scale of the scheme and include appropriate sensitivity analysis to consider the effects of uncertainty on project impacts.” Paragraph 5.275 also states “For road and rail developments, the Applicant’s assessment should include an assessment of the transport impacts on other networks as part of the application, based on discussions with the Local Highway Authority/Local Transport Authority/Local Planning Authority.” Whilst substantively similar provisions are included in the 2015 NNNPS, the 2024 NNNPS must be considered separately and be given additional weight. Unfortunately, National Highways continues to have concerns about the modelling produced by the Applicant and is not currently in a position to confirm that it agrees that the assessments, for both construction and operation, can be relied upon.	<p>Please note the Applicant’s response to 62.10.</p> <p>Notwithstanding the above, the Applicant is confident that the strategic and operational traffic modelling undertaken to assess the impact of the Scheme is proportionate to its scale. The Applicant has followed National Highways’ (NH) Project Control Framework (PCF) process and all the PCF products associated with the traffic modelling for the Scheme have been reviewed and signed-off by NH from a PCF governance perspective. The Applicant has undertaken traffic modelling for both high and low traffic growth scenarios in accordance with Department for Transport (DfT) Transport Analysis Guidance (TAG). These sensitivity tests confirm the benefits of the Scheme, accounting for uncertainty in demand forecasting assumptions.</p> <p>The Applicant continues to regularly engage with NH to address its concerns with the traffic modelling, with progress being recorded in the SoCG (REP1-035) submitted at Deadline 1 and on resolving matters in a revised iteration of the SoCG which will be submitted into the Examination.</p>
62.12	Paragraph 4.43: “The Applicant should be able to demonstrate that their scheme is consistent with government Road Safety policy and with the National Highways Safety Framework for the Strategic Road Network. Applicants must show that they have taken all steps that are reasonably required to minimise the risk of death and injury arising from their development”. This requirement does not appear in the 2015 NNNPS and National Highways considers it is relevant to this scheme. National Highways is not in a position currently to confirm whether the scheme is compliant with this paragraph, particularly in relation to the impacts potentially arising from construction.	<p>Please note the Applicant’s response to 62.10.</p> <p>Notwithstanding the above, the design of the Scheme has been undertaken in full accordance with applicable guidance and standards contained in the Design Manual for Roads and Bridges (DMRB). Road safety has been paramount in the design of the scheme and is based on the following road safety objectives:</p> <ul style="list-style-type: none"> • The scheme is capable of being operated in an acceptably safe manner. • A proportionate safety risk assessment has been undertaken.

Response Reference	Written Representation Issue	Applicants Response
		<ul style="list-style-type: none"> • Safety challenges have and will be addressed. The safety objectives can be achieved. • Risk management has been continually applied through scheme development and • delivery. • Appropriate safety risk governance has been applied. <p>Design development of the Scheme has also followed the NH(PCF, with all applicable PCF documents having been reviewed and signed-off by NH from a governance perspective. A Safety Report for the Scheme has been submitted to and signed-off by NH in accordance with the NH PCF governance process. The Safety Report includes risk assessments in accordance with GG104 of the DMRB. The proposed designs for all the M5 junction 10 slip roads require departures from standard. These have been uploaded onto NH's Departure Approval System (DAS) and NH's Safety, Engineering & Standards (SES) have confirmed provisional agreement to the departures. This has been submitted at Deadline 2 (TR010063/APP/9.42).</p> <p>The design of the Scheme has also been subject to an independent Stage 1 Road Safety Audit (AS-045) that did not identify any road safety concerns that cannot be addressed during subsequent detailed design of the Scheme.</p> <p>During construction, considerations on safety regarding interactions between normal traffic, construction traffic and public rights of way users will be managed through the Traffic Management Plan (AS-041) and Public Rights of Way Management Plan (AS-042) which form part of the 1st Iteration EMP (AS-025), and will be incorporated into the 2nd Iteration EMP. National Highways is noted as consultee to the 2nd Iteration and 3rd Iteration EMP in Requirement 3 of the dDCO, and therefore the Applicant considers that National Highways input regarding the ongoing safety of the construction of the scheme is suitably managed.</p>

Response Reference	Written Representation Issue	Applicants Response
		<p>The Transport Assessment (AS-029) includes an assessment of recent Personal Injury Accidents (PIAs) recorded over five years to 2021 within the defined study area. The assessment identifies the locations and severity of accidents on the Strategic Road Network (SRN) (M5 J10) and eight affected junctions, where a total of 30 PIAs have been recorded over the five-year period. This is not considered to be unexpectedly high, and there are no locations identified as experiencing significant road safety problems.</p> <p>Consequently, the Applicant is confident that the Scheme fully complies with both the Government Road Safety Policy and National Highways Safety Framework for the SRN in that all steps have been taken that are reasonably required to minimise the risk of death and injury arising from Scheme.</p>
62.13	<p>Paragraph 5.51: “The Applicant should not just look to mitigate direct harms but should show how the project has taken advantage of opportunities to conserve and enhance biodiversity, having due regard to any relevant local nature recovery strategies and species conservation strategies.” National Highways’ position is that the Applicant has not addressed fully the opportunities to enhance biodiversity and National Highways is not currently confident that the proposals secure National Highways standards for biodiversity on the SRN.</p>	<p>As noted in reference 2.7 of Section 3 of the SoCG submitted at Deadline 1 (REP1-035) – the Applicant’s position is that the BNG assessment (and subsequent reporting) are based on the Scheme's landscaping and planting design. These have been developed in line with NH's requirements (for the SRN areas), and GCC's planting and maintenance of road verges requirements for the non-SRN elements. These details are presented in the LEMP (Annex B5 of the EMP 1st iteration) (AS-035) This was agreed by NH through the SoCG submitted at Deadline 1 (SoCG item 2.7 REP1-035).</p>
National Highways Consultation Response – Elms Park		
62.14	<p>The Examining Authority has asked National Highways to confirm its consultation response in relation to the planning application submitted for Elms Park. The context for the question is how much new development can be supported without the need for the motorway junction improvement element of the scheme. The Applicant has referred to this quantum of development as “dead weight” in the Application documents.</p>	Noted.
62.15	<p>National Highways asked for two conditions to be attached to any planning permission for Elms Park that was issued. The conditions set out</p>	

Response Reference	Written Representation Issue	Applicants Response
62.16	<p>the level of development that can be supported at the site before the M5 J10 improvements are delivered.</p> <p><i>“No more than 260 dwellings of the development hereby permitted shall be occupied unless or until the improvement scheme identified for M5 Junction 10, as shown on PJA drawing reference 2314-A-0100 Rev P2, titled ‘M5 junction 10 SB Off-slip Signalised Junction General Arrangement’, or an alternative scheme that provides equal or greater benefit, is completed to the written satisfaction of the Local Planning Authority (in consultation with Highways England) and is open to traffic.</i></p> <p><i>Reason: To off-set development traffic impacts at the M5 J10. To ensure the safe and efficient operation of the SRN”</i></p>	
62.17	<p><i>“No more than 1,000 dwellings of the development hereby permitted shall be occupied unless or until the “M5 Junction 10 All Movements Improvement Scheme” (Housing Infrastructure Fund major improvement scheme), or an alternative scheme that provides equal or greater benefit, is completed to the written satisfaction of the Local Planning Authority (in consultation with Highways England) and is open to traffic.</i></p> <p><i>Reason: To off-set development traffic impacts at the M5 J10. To ensure the safe and efficient operation of the SRN”</i></p>	<p>Noted. As outlined in the Applicant’s Response to Relevant Representations RR-005, RR-006, RR-007 and RR034 (REP1-048) the Applicant’s position is that the Grampian position taken by National Highways, alongside the S106 contributions sought towards the M5 Junction 10 Improvement Scheme by GCC Highways Development Management, underline the need for the Scheme in unlocking the West Cheltenham Strategic Allocation in its entirety.</p>
62.18	<p>National Highways has not yet provided an opinion or consultation response to the local planning authorities on any of the other allocated or safeguarded sites.</p>	<p>Noted.</p>
Other Matters		
62.19	<p>National Highways has met with the Applicant and the representatives of the joint councils (as planning authorities) to discuss resolving the dispute concerning discharge of requirements. The Applicant is providing an update to the Examining Authority on a joint basis for Deadline 1.</p>	<p>Please see REP1- 047 of the Applicant’s Deadline 1 submission, in response to Action Point 7, that provides an update on the discussions between the Applicant, National Highways and the Joint Councils.</p>

REP1-064 - Savills on behalf of St Modwen and Midlands Land Portfolio Limited

Response Reference	Written Representation Issue	Applicants Response
	Introduction	
64.1	<p><u>Background</u></p> <p>This document is submitted on behalf of St. Modwen and Midlands Land Portfolio Ltd (SM&MLPL) and forms their formal Written Representation for submission at Deadline 1 (18 June 2024). Savills act as planning adviser to SM&MLPL and are authorised to submit these representations on their behalf.</p>	Noted.
64.2	<p>SM&MLPL are the joint applicants for the outline planning application (refs: 22/01817/OUT and 22/01107/OUT) at land at West Cheltenham, to the south of Old Gloucester Road. The proposed development, as set out in the outline planning application, has been prepared with regard to the adopted planning policy, the Golden Valley SPD and the separate application and emerging proposals of the other principal landowners within the wider A7 West Cheltenham allocation.</p>	Noted.
64.3	<p>In March 2024, Savills submitted a Relevant Representation on behalf of SM&MLPL prior to commencement of the examination process [document reference RR-034]. This Written Representation has been prepared in regard to the previously submitted Relevant Representation and therefore does not repeat previously submitted information, instead it seeks to provide further clarification on SM&MLPL's current position in relation to the matters previously raised and provide additional technical commentary on the proposed link road interface with SM&MLPL's application.</p>	Noted.
64.4	<p>SM&MLPL participated in ISH1 (represented by Mr Nick Matthews of Savills) and following the discussions during this hearing, SM&MLPL wish to reserve the right to provide further commentary and response to matters raised once the Deadline 1 submissions from the Applicant are published. SM&MLPL will provide this further commentary to the ExA at Deadline 2.</p>	Noted.

Response Reference	Written Representation Issue	Applicants Response
64.5	Further, SM&MLPL have been in regular dialogue with the Applicant team for a number of years, SM&MLPL are committed to continuing this dialogue and await further response from the matters discussed post ISH1 as outlined in SM&MLPL's written submission of oral case submitted at Deadline 1.	Noted.
64.6	<p><u>SM&MLPL Position</u></p> <p>The overall position of SM&MLPL is that the DCO should only acquire land that is necessary. SM&MLPL consider that there has been a lack of regard to SM&MLPL's proposals, given that SM&MLPL's planning application was submitted in advance of the DCO application.</p>	Further to the publication of SM&MLPL's Written Representation the Applicant has met with the interested party to seek clarification on the matters raised. During the meeting it was agreed that both the Applicant and SM&MLPL will provide further information in order to address the various points with an intent to provide an update on discussions at Deadline 3 within an updated Statement of Common Ground.
64.7	The sections below provide the additional technical commentary of the interface between the two applications that SM&MLPL consider the ExA should have due regard to.	
64.8	<p><u>Transport</u></p> <p>SM&MLPL's Relevant Representation [document reference RR-034] provides an accurate summary of SM&MLPL's current position in relation to transport modelling, and for brevity, the matters raised are not repeated again here.</p>	
64.9	SM&MLPL have also provided a written note of the oral submission provided by Mr Matthews on behalf of SM&MLPL at Deadline 1, this should also be referred to when considering SM&MLPL's position.	Please see the Applicant Response to Written Submissions of Oral Case (TR010063/APP/9.41), submitted at Deadline 2, where any points of relevance have been addressed.
64.10	SM&MLPL note that the Technical Note (dated 30/01/24) submitted by PJA on behalf of Bloor Homes and Persimmon Homes outlined the outputs from the modelling work which they have undertaken. The modelling included only 1,100 dwellings at West Cheltenham. This very conservative quantum of development upon which the allocation was made, reflects the uncertainty at the time of the allocation of the site through the JCS. The further assessment work undertaken to inform the preparation of the Golden Valley Supplementary Planning Document recognised that the allocation has capacity for a considerably larger quantum of development and this has been reflected in the planning applications subsequently submitted by two of the three developers /	As outlined in the Applicant's Response to Relevant Representations RR-005, RR-006, RR-007 and RR-034 (REP1-048), the SPD includes the preparation of a development capacity study, informed by the strategic masterplanning work undertaken for the SPD, which highlights that the allocated site is likely to present the opportunity for a housing capacity of 2,370 dwellings. The SPD looks beyond the current plan period towards further phases of growth, the same scenario that the M5 J10 Improvements Scheme looks to facilitate when considering its 2042 design year. As outlined by SM&MLPL this increased capacity has been further reflected by the planning applications that have been submitted.

Response Reference	Written Representation Issue	Applicants Response
	landowners bringing forward proposals. The output of the PJA modelling does not therefore reflect the latest position with the cumulative sites and underestimates the quantum of development being brought forward at West Cheltenham.	
64.11	SM&MLPL consider that the TA submitted to support the DCO application focuses on the need for Scheme Element 1 (all-movements junction) and does not clearly define the need for Scheme Element 2 (West Cheltenham Link Road east of Junction 10 from the A4019) and Scheme Element 3 (widening of the A4019).	The Transport Assessment (APP-138) presents the assessment of the transport related impacts of the Scheme in its totality, i.e., including all three elements. The need for the Scheme, including the West Cheltenham Link Road and the widening of the A4019, is set out in the Statement of Reasons (REP1-007), which is supported by policy as set out in the Planning Statement and Schedule of Accordance with National Policy Statement (REP1-028). The Scheme elements were determined through a thorough option appraisal process that considered alternatives, as explained in Chapter 3 of the Environmental Statement (APP-063), which were subject to both public and statutory consultation as recorded in Consultation Report (APP-038).
64.12	SM&MLPL would also wish to raise a concern that the land acquired for the DCO would impact the active travel routes proposed as part of SM&MLPL's submitted planning application.	Further to the publication of SM&MLPL's Written Representation the Applicant has met with the interested party to seek clarification on the matters raised. During the meeting it was agreed that both the Applicant and SM&MLPL will provide further information in order to address the various points with an intent to provide an update on discussions at Deadline 3 within an updated Statement of Common Ground.
64.13	<u>Biodiversity and Ecology</u> SM&MLPL have reviewed the DCO in relation to ecology and biodiversity matters, SM&MLPL reserve the right to raise additional points in the process of the examination but at this stage wishes to raise the matters below as the key areas and interactions between the two applications.	
64.14	The most important implication of the DCO in ecological terms is the loss of SANG area. By the Applicant's calculations, taking the DCO redline, this would lead to loss of 0.67 hectares of the proposed SANG - such that the total area reduces from 21.42 hectares to 20.75 hectares. As the Applicant has noted on the plan submitted with the DCO, this would result in the scheme becoming deficient overall in terms of the total area of SANG required for 1,100 units, specifically by 0.37 hectares. On review of the Applicant's environmental masterplan for this area, it is apparent that there will be some re-provision of habitats to the south of the widened road	

Response Reference	Written Representation Issue	Applicants Response
	<p>- however, this would constitute swale / road verge habitats primarily, and a new hedgerow to be provided on the southern boundary of these (between the road and the site). On this basis, in effect this area could not form part of a SANG as it would not be publicly accessible for use by new and existing residents, regardless of the fact that this would constitute semi-natural habitats.</p>	
64.15	<p>This forms a fundamental element of the avoidance and mitigation strategy upon which the scheme is reliant to demonstrate that the development would not be likely to affect the integrity of Cotswold Beechwoods SAC (or indeed any other 'Habitats Site' or other statutory designations) either alone or in combination with other development. Whilst the Competent Authority under the Habitats Regulations (the LPA for West Cheltenham) may take the view that this is not material, the application documents as agreed with Natural England make clear that the provision of SANG of the scale proposed meets the relevant requirements in terms of area, and therefore it is feasible that NE could, as the statutory advisor, have concerns that the removal of this area from the SANG means that it is no longer appropriate.</p>	
64.16	<p>The Biodiversity Chapter (7) for the DCO application explicitly notes (para 7.6.12) the following: "one of the objectives of the scheme is to unlock the proposed housing developments in the area by providing the necessary highways infrastructure". In this light, this would appear to conflict directly with the scheme, as reducing the area of SANG as a result of the works would be likely, in fact, to do the opposite for the West Cheltenham site.</p>	
64.17	<p>SM&MLPL would welcome the opportunity to discuss with the Applicant the approach taken in the DCO towards this matter through the course of the examination.</p>	
64.18	<p>Beyond this, the DCO application would invariably result in loss of additional hedgerow habitat in the north-west of the site. The DCO proposes to mitigate for this on a 'site-wide' basis, and new hedgerow planting appears to be proposed as part of the scheme. These hedgerows are not particularly species-rich in their own right but bat surveys did record these to be utilised by foraging and commuting bats, including</p>	

Response Reference	Written Representation Issue	Applicants Response
	<p>Lesser Horseshoe and (more occasionally) Barbastelle. Survey work for the DCO recorded the presence of roosting bats in buildings to the north of Old Gloucester Road (Pipistrelle), and made reference to the findings of SM&MLPL's surveys in the cumulative assessment section of ES Chapter 7 (para 7.10.50). A crossing point is however proposed in close proximity to the site. As such, it would appear that the implications arising in relation to bats has been considered and SM&MLPL have no additional comments to make in this regard.</p>	
64.19	<p>A suite of other surveys was also undertaken across the DCO site and wider area - SM&MLPL consider that the findings of these surveys appear to be relatively robust and there do not appear to be any particular implications arising for West Cheltenham (e.g. No Dormouse, Great Crested Newt or reptile records in the local area of the site for instance) and as such, SM&MLPL have no additional comments to make in this regard.</p>	
64.20	<p><u>Flood Risk</u> Having reviewed the submissions for the DCO application in relation to flood risk and drainage, SM&MLPL have a number of matters to raise at this stage, SM&MLPL reserve the right to provide further commentary at later stages of the examination.</p>	
64.21	<p>SM&MLPL note that the temporary and permanent junction works encroach upon the proposed attenuation basin and downstream drainage alignment of SM&MLPL's planning application submitted prior to the DCO application.</p>	
64.22	<p>On review of the proposed junction general arrangement to the DCO development, it is noted that the site interface also differs to SM&MLPL's general arrangement set out in their planning application submitted prior to the DCO application.</p>	
64.23	<p>SM&MLPL recommends that these discrepancies are resolved and wish to engage with the Applicant in relation to other matters that require further consideration, these include any loss of flood storage due to the raised levels associated with the new junction and the potential</p>	

Response Reference	Written Representation Issue	Applicants Response
64.24	<p>requirement to widen the existing ditch under flood mitigation measures for the residential site, both of these are subject to agreement of flood modelling data.</p> <p><u>Utilities</u> As part of their planning application, SM&MLPL are seeking diversions of 11 kV powerlines. On this basis, SM&MLPL wish to engage with the Applicant to discuss these diversions and their relationship to the land which is proposed to be acquired under the DCO to address a number of matters where the two applications interact.</p>	
64.25	<p><u>Conclusion</u> In principle, SM&MLPL support the proposed works set out within the DCO application, however, there remain implications for SM&MLPL's scheme which need to be worked through and agreed.</p>	
64.26	<p>SM&MLPL remain unconvinced that the extent of the land required for the DCO has been fully justified, and on this basis, SM&MLPL will continue to work with the Applicant to resolve these and ensure that the two developments can work alongside each other.</p>	

REP1-065 - Steven Wakefield

Response Reference	Written Representation Issue	Applicants Response
Summary		
65.1	<p><u>Land Acquisition Process</u></p> <p>This element details the questionable and immoral process that Carter Jonas, the appointed agents by Gloucestershire County Council (GCC), have applied to landowners. It relies on statements and correspondence from Carter Jonas and their contract with GCC along with personal experience.</p>	Please see responses 65.4 to 65.14 below.
65.2	<p><u>Consultation Process</u></p> <p>This element details the failure of the process to engage and inform the public of the scheme to provide effective and reliable data. It relies on data provided on GCC scheme website and personal local knowledge and experience.</p>	Please see responses 65.15 to 65.20 below.
65.3	<p><u>Conclusion</u></p> <p>This element details the resulting consequences of the failures of GCC and Carter Jonas to comply with the Land Acquisition Process and Consultation Process. It is a direct result of Statements, GCC provided Data and includes personal local knowledge and experience.</p>	Please see responses 65.21 to 65.27 below.
Land Acquisition Process		
65.4	<p>Carter Jonas have operated outside of legal requirements as defined in their contracted role. In a statement created by Carter Jonas they stated:</p> <p><i>'Whilst negotiations are ongoing, the Applicant is mindful that it is under a duty to acquire land at best value and that * is required to deliver the Scheme within a specified timescale.'</i></p> <p>Source: Statement of Reasons TR010063 - APP 4.1 para 4.8.4</p>	<p>Carter Jonas is a RICS Regulated Firm and adheres to the Rules of Conduct for Firms and Individuals throughout its service provision. The application of best practice and government guidance for a scheme being deliver under statutory powers has been followed. Carter Jonas have sought and taken instruction from the Applicant throughout.</p> <p>Negotiations have been conducted in line with best practice and on a fair and reasonable basis to secure voluntary agreements to allow the</p>

Response Reference	Written Representation Issue	Applicants Response
65.5	<p>That statement can only be interpreted as obtaining land as cheaply as possible while also falsely claiming the applicant has a duty to do so. It conflicts with the legal requirement of equivalence and mentions a specified timescale which conflicts with Carter Jonas's reluctance to communicate for considerable periods of time. There is nothing in the £600,000.00 contract between GCC and Carter Jonas, which was clearly defined and in place at the time of submission, which supports that statement.</p> <p>Source: Carter Jonas contract to GCC, Document ref 2700-19 acquired on FOI request.</p>	<p>Applicant to deliver that scheme. The Applicant does not consider best value to mean the lowest value. Best value is also not limited to market value which would apply to any statutory compensation. The Applicant is negotiating terms for a voluntary purchase which represent the benefit the Applicant requires and wishes to achieve the best value for the Scheme by doing so. It is important to consider the nature of the funding for the Scheme and need to ensure appropriate and reasonable values are agreed which reflect the market value and any benefit being achieved by the Scheme.</p> <p>The Applicant considers this to be a reasonable and well-established approach when negotiating voluntary agreements for a scheme such as this.</p>
65.6	<p>Carter Jonas have stated that it can be a challenge to comply with the law, when referring to paying the legally defined value a homeowner should expect.</p> <p>Source: Carter Jonas and Homes England meeting regarding land acquisition. (public domain)</p>	<p>The Applicant cannot comment specifically on the statement made without knowing the specific quote or context within which it has been made.</p> <p>As detailed in response 65.4 above Carter Jonas follow government guidance and best practice to negotiate fair and reasonable compensation. It complies with all legal requirements.</p>
65.7	<p>There can be no justifiable reason for Carter Jonas to make this statement. It is another clear example of the low ethical and legal values of this private company.</p>	<p>It is accepted within the industry, that market value can be hard to establish in specific situations. An example would be disregarding the impact that an entirely new motorway can have on property values if it has been publicly considered by an authority over 10 years. Whilst this can make the application of compensation legislation challenging when it comes to agreement over compensation it would ultimately be a point considered by a Tribunal if parties disagree on the application of legislation.</p>
65.8	<p>Carter Jonas have made false claims of downwards movements in the housing market when the market had actually been increasing in value.</p>	<p>The Applicant notes the statement made and would request that evidence corroborating the position is produced to support it. The Applicant is not aware of any such statement being made.</p>

Response Reference	Written Representation Issue	Applicants Response
	Source: email from Carter Jonas and Land Registry data covering same period.	
65.9	Another example of their unethical efforts to undervalue properties.	
65.10	The requirements for acquiring land by negotiation have not been met. Negotiation by definition requires both parties to engage in the process. The process has actually consisted of the GCC agents Carter Jonas offering a valuation price that Carter Jonas has solely determined on a take it or leave it basis. Efforts by the land owner to engage with negotiations are routinely dismissed then Carter Jonas would not be heard from again for up to 10 months, despite repeated yet ignored attempts to engage with them to progress negotiations.	<p>The Applicant has been engaging with and progressing negotiations with Mr Wakefield's Agent since July 2021. The most recent virtual meeting being held on 21st June 2024. The Applicant's engagement is summarised within the Land Rights Tracker (REP1-044).</p> <p>Through this process Mr Wakefield's agent has put forward his opinion on value and the Applicant's agent has further evidenced their opinion on value. The Applicant has increased their offer to Mr Wakefield on several occasions in response to any appropriate evidence provided.</p>
65.11	<p>The stress and inconvenience caused by this approach applied pressure on home owners to accept a lower than genuine market value for their properties. Many residents, my neighbours, of which many were elderly or suffering with illness, have accepted the low offer of a valuation determined by Carter Jonas, allegedly to RICS Red Book standards but considerably lower than an independent Red Book valuation. This questions the integrity of Carter Jonas. It also set an unfair price precedent that Carter Jonas applied to subsequent valuations/offers. The other element of pressure would include the threat of possibly receiving less if the case went to a tribunal hearing.</p> <p>Source: own experience and neighbour conversations.</p>	<p>It is normal and appropriate in the context of compulsory purchase for an acquiring authority (AA) to conduct an initial valuation and invite evidence from an impacted party if there is a disagreement on the AA's opinion of market value. A valuation is a professional's opinion based upon the information available to them. The Applicant has encouraged impacted parties to appoint a specialist agent to advise on value and compensation and Mr Wakefield has appointed an agent on this basis. As stated above, there remains disagreement as to value which the Applicant continues to attempt to resolve.</p>
65.12	Carter Jonas are now out of contract, their 6 month extension period expired on 3rd April 2024 and there is no wording in the contract to allow for any further extensions. No extensions of contract without a re-tender process (which temporarily existed during Covid) are permitted. Nor any re-tender process has been applied. Yet Carter Jonas are still present at hearings and meetings. How and why? Evidenced by my meeting with Gloucestershire County Council (GCC) and Carter Jonas on 5th June 2024 at Leonardo Hotel Cheltenham. When questioned about this point, no answer was provided. During this meeting a promise to engage with	The contract between GCC and Carter Jonas foresees contract extensions and Carter Jonas' scope of services in relation to the M5 J10 Improvements Scheme has been extended to enable continuity of service. Carter Jonas are and will continue to be the Applicant's appointed land agents for the purposes of negotiation of land interests.

Response Reference	Written Representation Issue	Applicants Response
	<p>negotiations the following week was made, unsurprisingly this did not happen. This was confirmed by neither my land agent nor myself receiving any contact (as of 16th June 2024).</p> <p>Source: Carter Jonas contract to GCC, Document ref 2700-19 acquired on FOI request.</p>	
65.13	<p>The book of reference is incorrect and has not been updated despite my land agent raising this error.</p> <p>Source: Book of Reference</p>	<p>The Applicant considers the Book of Reference to reflect the results of both non-contact and contact referencing. The Applicant would welcome further information to inform any potential changes to the Book of Reference where it is thought necessary.</p>
65.14	<p>The GCC report of progression of land acquisition is misleading * the examination process. It implies that negotiations are progressing, when there has been no correspondence for months. I suspect misleading claims to be a common occurrence throughout the application documentation.</p>	<p>A virtual meeting was held with Mr Wakefield's agent on the 1st May 2024 and 21st June 2024 during which value and compensation were discussed. The Applicant wishes to continue these negotiations with the desire to reach a voluntary settlement. The Applicant will ensure Mr Wakefield is invited to any further meetings and correspondence is copied to them.</p>
Consultation Process		
65.15	<p>GCC have gone to great lengths to create many documents to publish on their website and submit great quantities of analysis data on the outcomes of consultation, attempting to portray a successful and supportive view of the scheme. However, the facts speak for themselves in that only a tiny proportion of the population of Cheltenham is aware of the scheme or actually support it (0.07%). Note: The actual figures would be less as the percentage figure only uses the population of Cheltenham in calculations. Yet survey responses were received from much further afield.</p>	<p>Participation in consultations is not mandatory, but rather offers an open invitation to anyone with an interest in a scheme, to give feedback, make suggestions, or raise concerns. The Applicant widely publicised this opportunity through flyers, newspaper notices; radio interviews; press releases; social media; attendance at meetings; signage and engagement with stakeholders and the local community. Ultimately, the Applicant cannot control the level of interest that a particular community demonstrates, or the level of participation that a consultation will receive. As a result, the Applicant was careful not to make assumptions about the perspectives of those who did not respond and instead, can only report on and respond to, the feedback and issues raised by those that did.</p>
65.16	<p>Using survey results from GCC M5 J10 scheme website:</p>	<p>For both the non-statutory and statutory consultations the majority of those who responded to the question supported the scheme.</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>Non statutory consultation survey from 14 October 2020 until 25 November 2020 (6 weeks) 475 responses more than 80% positive (later claimed to be 84% by redefining results).</p> <p>Statutory consultation survey from 8 December 2021 until 15 February 2022 (10 weeks) A total of 579 survey responses were received during the consultation period. 74% of survey respondents agreed with the proposed improvements to M5 Junction 10.</p> <p>This is claimed to be consistent with the results from the non-statutory consultation held in autumn 2020, yet clearly shows decreasing support for the scheme.</p>	<p>As the consultation responses are anonymised, the data cannot infer whether the same individuals responded to both the non-statutory consultation and the statutory consultation surveys, nor whether an individual's support for the scheme has changed over time.</p>
65.17	<p>Effectiveness of consultation report June 2021 84% negative opinion on level of engagement 87% negative opinion on clarity 40% negative and 20% neutral opinion on process</p> <p>The data indicates that the more effective the consultation is in reaching the public the less the scheme is supported. The low numbers of responses relative to the population of Cheltenham 118,866 (mid 2021 ONS) excluding responses from outside the area is less than 0.5% of the population. This is a clear indication of the ineffective strategy of consultation. This is further proven by the huge percentage of the few responses reporting dissatisfaction with the level of engagement (84%) and clarity (87%).</p>	<p>The effectiveness of consultation questions in the non-statutory consultation were not mandatory. The percentages reported are correct however the response rate to these questions was low: 19 responses to level of engagement, 23 on information clarity, and 20 on process.</p> <p>This is a small sample size of the overall respondents (440) and therefore there may be sampling bias. It is not possible to infer from the data collected, whether the total number of responses received during the non-statutory consultation, correlate to the proportion of support received.</p> <p>The consultation was open to anyone including those outside of Cheltenham as the scheme has the potential to impact people outside of Cheltenham. As previously stated, participation in consultations is not mandatory and this non statutory consultation was widely publicised. Lessons were learnt from this consultation and implemented in the subsequent consultations.</p>
65.18	<p>The startling fact that 84% of the 0.5% population of Cheltenham who commented, reported a negative opinion on the level of consultation - in other words only 0.07% have reported a positive opinion, therefore</p>	<p>19 people responded to the question on level of engagement in the non-statutory consultation, 16 people (84%) reporting a negative opinion, and 3 people (16) reporting a positive opinion.</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>99.93% have either no knowledge of the scheme, not interested or feel poorly engaged.</p> <p>Covid 19 is a well touted convenient excuse and expected in personal interactions but not applicable in any other forms of communication which in this case could comfortably be described as minimal. As a resident I am often (daily) asked by motorists intrigued by what is happening and are totally unaware of the existence of the planned scheme. Some have only become aware following newly released news of an application being submitted to PINS.</p>	<p>As the consultation is not mandatory and this question was not mandatory, it is not possible to infer that those who did not respond have no knowledge of the scheme, are not interested or feel poorly engaged.</p> <p>Due to the COVID-19 pandemic, the non-statutory consultation was fully digital, and all engagement was conducted virtually. This was in line with government guidelines at the time of consultation and as per the guidance of The Consultation Institute (tCI).</p> <p>Whilst no face-to-face engagement took place, members of the public were encouraged to contact the Applicant’s project team through the scheme inbox, or via the designated project phonenumber.</p> <p>Further engagement with members of the wider public was sought through the promotion and production of accessible consultation materials, including:</p> <ul style="list-style-type: none"> • Consultation brochure (both hard copy and digital copy) • Consultation website • Scheme webpage on GCC Highways website • Stakeholder pack (hard copy and digital) • Talking heads videos • Technical Appraisal Reports (TARs) <p>In light of the COVID-19 pandemic, ever improving digital technology and feedback from the non-statutory consultation, a ‘digital first’ approach was adopted for the statutory consultation in December 2022. It was however recognised that some audiences were unable or uncomfortable with engaging through digital platforms. Therefore, two face to face events were held alongside four virtual events and hard copies of consultation materials were provided to those who requested them. To keep the local community up to date and informed of the scheme and its progress, there have been three information sessions at the Cheltenham Fire and Rescue Station (September 2022, June 2023 and March 2024). In addition to regular updates to the</p>

Response Reference	Written Representation Issue	Applicants Response
		<p>Applicant’s website, including frequently asked questions, social media and press releases. The M5 Junction 10 email address is active, and the Applicant has held meetings and phone calls with individuals who have made contact this way.</p> <p>The Applicant has also attended Parish Council meetings with Uckington Parish Council, Elmstone and Hardwicke Parish Council and Stoke Orchard and Tredington Parish Council.</p>
65.19	<p>The consultation report is vague on the amount of responses from outside of the Cheltenham area which would be relevant as this scheme is alleged to be a land unlocking exercise to enable housing for Cheltenham residents.</p>	<p>The need for the scheme was established through the Joint Core Strategy to unlock strategic allocation sites across the jurisdiction of all of the Joint Councils.</p> <p>The location of respondents for the non-statutory consultation is shown in the non-statutory consultation (options) report (a link to this report is provided in Appendix C, APP-041).</p> <p>The map shows the postcode areas closest to the scheme had the greatest number of responses.</p> <p>Figure 10.2 in the DCO Consultation Report (APP-038) shows the responses by postcode for the statutory consultation. The map shows the postcode areas closest to the scheme had the greatest number of respondents.</p>
65.20	<p>Finally it is noteworthy that during the period when electronic signage was deployed asking for opinions of the scheme, the local area was experiencing a long standing road closure (over 1 year) creating disruption and inconvenience for drivers seeking alternative routes. During this time the prospect of the M5 J10 scheme being an all ways junction was artificially influenced to be a positive. Many of the positive responses are expected to be influenced by this inconvenience. This means the survey data is unreliable.</p>	<p>From the data collected, it is not possible to infer whether an extraneous road closure elsewhere could influence the proportion of positive responses towards the M5 Junction 10 Improvements scheme.</p>
Conclusion		

Response Reference	Written Representation Issue	Applicants Response
65.21	Home owners around the M5 J10 scheme have been very poorly treated by Carter Jonas and GCC, not one of my neighbours has a good word to say about their experience. I have only seen despair, disappointment and frustration. There have been examples of cruelty and fear, mainly towards the elderly and sick. I am not prepared to disclose their private matters/experiences in this public document.	The Applicant takes these allegations seriously and invites Mr. Wakefield to engage with its representatives in order to discuss his experience. If Mr. Wakefield considers that the treatment received by the Applicant or its representatives is unacceptable, Gloucestershire County Council will consider any formal complaints received by their Corporate Complaints Team.
65.22	It is clear that GCC want the M5 J10 scheme, but are not prepared to pay for it: GCC have claimed the scheme is required to unlock land to obtain a £249,000,000 grant from a Homes England fund, this is a very dubious claim as the land is not 'locked' and adjacent to the A4019. They have provided unreliable and insufficient data to support their claim. Other local infrastructure would be more appropriate.	The M5 J10 scheme was identified in the Joint Core Strategy (JCS) as part of the mitigation necessary to support housing at sites allocated in that JCS, details of which can be found in the Planning Statement (REP1-028). The JCS considered a number of alternative interventions to mitigate the impacts of the allocated sites but concluded that a significant improvement to M5 J10 (or similar in size and scale) was required. Without this, or other significant investment to mitigate the impacts of development at the allocated sites, developers would not be able to sufficiently mitigate the transport impacts of the planned growth (houses and employment led development) before reaching planning limits (note the National Highways Grampian condition in position on the Elms Park planning application). Whilst National Highways recognise the scheme through the Road Investment Strategy (RIS) 2020-2025 it is unlikely the scheme would have been sufficiently prioritised by them to be funded through the Road Investment Plan (RIP) and hence there was a need for other parties to seek to bring forward the scheme to support the growth planned by the JCS authorities.
65.23	GCC have experienced spiralling costs which are increasing so have now made a claim for additional funding from the homes builders, who also argue the land is not locked and the extra costs would ultimately represent a tax on affordable homes. Their submission explains why in far greater detail than I could hope to achieve.	GCC have entered into a memorandum of understanding with JCS authorities (GCC, TBC and CBC) to pursue funding opportunities to deliver the necessary mitigation. As is typical of most major / national infrastructure schemes GCC sought funding from Government sources, in this case via the Housing Infrastructure Fund, to deliver this scheme; without this funding GCC would not have been in a position to promote the Scheme. Whilst the Scheme was initially fully funded the

Response Reference	Written Representation Issue	Applicants Response
		development stage has been against the backdrop of significant inflation which has resulted in scheme cost estimates indicating the current funding shortfall and hence GCC have identified JCS policy INF7 as a suitable mechanism by which to pursue financial contribution to address the funding shortfall.
65.24	GCC are clearly attempting to acquire land as cheaply as possible through their contracted agents Carter Jonas.	Please see responses 65.4 to 65.5 above.
65.25	Carter Jonas and GCC have not acted in an acceptable manner, legally, morally or professionally. As a result we can not trust GCC or Carter Jonas in this process.	Please see responses 65.6 to 65.9 above.
65.26	There has been no consideration of our property annexe, which is for the purpose of housing a disabled and elderly member of the family with strong local ties. Due to the refusal to engage in negotiations we unfortunately expect this matter to be resolved by alternative means. Until such time as a valuation can be agreed we remain unable to seek alternative living arrangements which suit the family needs.	Please see responses 65.4 to 65.14 above.
65.27	The facts above fail to meet the legal requirements of Compulsory Acquisition and infringe on Human Rights without care or consideration of affected parties.	Please see responses 65.4 to 65.14 above.

REP1-067 - Environment Agency

Response Reference	Written Representation Issue	Applicants Response
67.1	Comments on Relevant Representations (RR) updated information. Further to our formal response on the Relevant Representation (RR) dated 22 March 2024. We have now reviewed the additional submissions which were uploaded to the PINS website dated 23 April 2024 and have the following comments.	Noted.
The Environment Agency Role		
67.2	The Environment Agency is an executive non-departmental public body, established under the Environment Act 1995.	Noted.
67.3	We were established to bring together responsibilities for protecting and improving the environment and to contribute to sustainable development. We take an integrated approach in which we consider all elements of the environment when we plan and carry out our work. This allows us to advise on the best environmental options and solutions, taking into account the different impacts on water, land, air, resources and energy.	Noted.
67.4	We help prevent hundreds of millions of pounds worth of damage from flooding. Our work helps to support a greener economy by protecting and improving the natural environment for beneficial uses, working with businesses to reduce waste and save money, and helping to ensure that the UK economy is ready to cope with climate change. We will facilitate, as appropriate, the development of low carbon sources of energy ensuring people and the environment are properly protected.	Noted.
67.5	We have three main roles: <ul style="list-style-type: none"> We are an environmental regulator – we take a risk-based approach and target our effort to maintain and improve environmental standards and to minimise unnecessary burdens on businesses. We issue a range of permits and consents. We are an environmental operator – we are a national organisation that operates locally. We work with people and communities across England to protect and improve the 	Noted.

Response Reference	Written Representation Issue	Applicants Response
	<p>environment in an integrated way. We provide a vital incident response capability.</p> <ul style="list-style-type: none"> We are an environmental adviser – we compile and assess the best available evidence and use this to report on the state of the environment. We use our own monitoring information and that of others to inform this activity. We provide technical information and advice to national and local governments to support their roles in policy and decision-making. 	
67.6	The Environment Agency takes action to conserve and secure the proper use of water resources, preserve and improve the quality of rivers, estuaries and coastal waters and groundwaters through pollution control powers and regulating discharge permits.	Noted.
67.7	We have regulatory powers in respect of waste management and remediation of contaminated land designated as special sites. We also encourage the remediation of land contamination through the planning process.	Noted.
67.8	The Environment Agency is the principal flood risk management operating authority. It has the power (but not the legal obligation) to manage flood risk from designated main rivers and the sea. The Environment Agency is also responsible for increasing public awareness of flood risk, flood forecasting and warning and has a general supervisory duty for flood risk management. We also have a strategic overview role for all flood and coastal erosion risk management.	Noted.
Scope of these Representations		
67.9	These Relevant Representations contain an overview of the project issues, which fall within our remit. They are given without prejudice to any future detailed representations that we may make throughout the examination process. We may also have further representations to make if supplementary information becomes available in relation to the project.	Noted.
67.10	We have reviewed the draft Development Consent Order (DCO) application, Environmental Impact Assessment (EIA) and supporting documents submitted as part of the above-mentioned application, following notification of its acceptance for Examination on 16 January 2024. Our main key outstanding issues of concern are listed in tables	Noted.

Response Reference	Written Representation Issue	Applicants Response
	below under each subject with general comments underneath the tables that need to be addressed before the DCO is granted.	
Draft Development Consent Order		
67.11	<p><u>Part 1, Preliminary, Interpretation</u></p> <p>Paragraph 2 - We would like this section amended as highlighted below to provide us with clarity that the wording “commence” does not exclude any ground works or remedial works which may have an impact on ground conditions.</p> <p>2, - “commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, ecological surveys and pre-construction ecological mitigation works, erection of any temporary means of enclosure, set up works associated with construction compounds such as soil-stripping, stockpiling, and the provision of access points, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;</p>	<p>The Applicant does not consider that the exclusions from the definition of “commence” highlighted by the Environment Agency would have an impact on ground conditions.</p> <p>In the first part, “investigations for the purpose of assessing ground conditions” will be a necessary part of compiling the information required to begin to discharge requirement 8. As part of its survey and evidence gathering for its Environment Statement, the Applicant has already carried out investigations and those were not necessarily tied to requirement 8. Therefore, excluding the ability to carry out investigations prior to commencement is not considered proportionate to the impact that those works are likely to cause.</p> <p>Regarding the exclusion of “remedial work in respect of any contamination or other adverse ground conditions”, the Applicant considers that the Environmental Agency have not interpreted the purpose of requirement 8 appropriately. Requirement 8 is drafted to ensure that risks from contaminated land are appropriately managed during construction of the scheme applying an appropriate trigger being “prior to commencement”. This is to ensure, principally, that contamination caused by disturbance and pathways generated by the construction of the authorised development is appropriately managed. The purpose of Requirement 8 is not to ensure that any and all remediation carried out by the Applicant is subject to that article.</p> <p>The exclusion of “remedial works” in the definition of “commence” needs to be considered in the context that it is inevitably “remedial works” prior to the material commencement of construction, meaning that the remediation will be of small, localised scale. It is anticipated that should this be required, it would be more in relation to other pre-commencement works such as set up works for construction compounds. It should be noted that pending detailed design and further</p>

Response Reference	Written Representation Issue	Applicants Response
		<p>investigations, there is no certainty on the extent of remediation that may be required.</p> <p>Requirement 8 continues to function appropriately as a pre-commencement requirement to control the need to remediate land prior to commencement with the exclusion of “remedial work” from “commencement”. This is because requirement 8 does not seek to govern “remedial work” for its own sake but to specifically ensure that risk is appropriately managed before “commencement”.</p> <p>Upon the Applicant taking possession of land required for the authorised development, the Applicant may need to carry out initial remedial work and may need to do this far in advance of deciding to implement the authorised development. The Applicant should therefore be able to carry out voluntary remediation where it is necessary without additional control and restraints caused by requirement 8. The Applicant considers this entirely reasonable and proportionate to the potential impact caused by potential remediation works.</p> <p>The Applicant would note that similar wording is included in the M3 Junction 9 Order 2024, The A417 (Missing Link) Order 2022, the A303 (Amesbury to Berwick Down) Order 2023, Hynet Carbon Dioxide Pipeline Order 2024.</p>
67.12	<p>We would want to see that the interpretation of commence does not exclude investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions. This will provide clarity on Schedule 2, Part 8, Requirements (Land and groundwater contamination).</p>	<p>See Applicant’s response at 67.11</p>
67.13	<p><u>Schedule 2, Part 1, Requirements</u> Requirement 3: Environmental Management Plan – The Environment Agency requests that it is added as a specific consultee to the discharge of this requirement so that it can advise on matters within its remit.</p>	<p>The Applicant’s position is as provided in its Response to Relevant Representations (REP1-043), entry 13.1. The Applicant’s position is that the Environment Agency is not required to be consultee for the EMP as a whole and is noted in the Register of Environmental Actions and Commitments (REAC) as consultee on those matters related to its functions. This is a standard approach which has been taken on the A417 Missing Link DCO 2022, M25 Junction 10 DCO 2022 and the M3</p>

Response Reference	Written Representation Issue	Applicants Response
		Junction 9 DCO 2024. The Applicant will continue to engage with the Environment Agency on this matter to understand the scope of consultation they require within the REAC
67.14	F(vi) Emergency Preparedness and Response Plan including Flood Management Plan and Severe Weather Plan – This is not within our remit. However, we would want to see something put in place from a flood risk perspective, this is technically for the Emergency Planners to sign off at the Local Authority.	The Applicant notes the Environment Agency’s comment. The Applicant notes its position as set out in the Consents and Agreements Position Statement (APP-033) is to obtain Flood Risk Activity Permits (FRAPs) from the Environment Agency separate to that of the DCO and therefore the Applicant considers that its position regarding flood risk is or will be covered. The Applicant has set out its current position regarding FRAPs a in the SoCG Item 19.1 submitted at Deadline 1 (REP1-036).
67.15	<p><u>Schedule 2, Part 8, Requirements</u></p> <p>We concur with Land and groundwater contamination section that we should be consulted on any remedial works.</p> <p>(5) We suggest you add the wording that is in bold - (5) Remedial measures must be carried out and their results submitted to the competent authority for approval in accordance with the scheme approved under subparagraph (4).</p>	The Applicant considers that the wording suggested by the Environment Agency to be similar to that suggested in their relevant representations and the same as to its purpose. The Applicant’s response is set out in its Response to Relevant Representations (REP1-043), entry 13.2. which states that the requirement as currently drafted already ensures that a written scheme and programme for remedial measures is to be submitted to and approved in writing by the county planning authority following consultation with the Environment Agency and relevant planning authority. The Applicant would be bound in law to carry out the remedial measures as per requirement 8(5). In addition, the drafting proposed by the Environment Agency isn’t clear as to its scope. It is not clear as to the meaning of “results” nor is it clear who the “competent authority” should be. The Applicant’s position remains the same that the requirement as drafted is appropriate.
67.16	<p><u>Schedule 2, Part 11, Requirements</u></p> <p>We would like to be consulted on the detailed design due to the environmental impacts</p>	The Applicant notes the Environment Agency’s written representation and has responded to the issue raised in its Response to Relevant Representations (REP1-043), entry 13.3, that states that the Applicant does not consider that it would be necessary to consult with the Environment Agency on detailed design due to its perception that there may be additional environmental impacts. The process by which the

Response Reference	Written Representation Issue	Applicants Response
67.17	<p><u>Schedule 2, Part 13, Requirements</u> (3) The scheme must be fully implemented as approved and subsequently maintained prior to the completion of the development.</p>	<p>Environment Agency will be consulted will be through the specific requirements related to its functions and those elements of the REAC which require its input.</p> <p>The Applicant has amended this requirement to take into account the Environment Agency’s comments made in its relevant representations.</p> <p>The Applicant does not consider the additional wording suggested in the written representations made by the Environment Agency to be appropriate.</p> <p>Firstly, paragraph 13(3) contains the obligation already to fully implement the detailed scheme for the flood compensation area. The additional wording of “prior to completion of the development” is not necessary. The Applicant considers that the measures identified within the scheme will be necessary in order to realise the mitigation reported on within the environmental statement and flood risk assessment. Therefore, the Applicant would not be able to simply not implement the flood compensation scheme without introducing effects not reported on within its environmental statement. In addition, the Applicant considers that any scheme agreed between the Environment Agency and the Applicant pursuant to paragraph 13 will need to consider the appropriate triggers for completion of those elements as informed by detailed design. Therefore, it is not the case that there would not be consideration of appropriate triggers it is just that this would be contained in the scheme itself. The Applicant considers that in all likelihood, that works which involve the removal of land from the floodplain would require compensatory works to be in place prior to their commencement. The extent of compensation required at any given point during the construction of the Scheme will be dependent on the works being undertaken in the floodplain. Given this level of detail, the appropriate location for setting out triggers is the documents produced pursuant to this requirement, rather than the dDCO itself.</p>

Response Reference	Written Representation Issue	Applicants Response
		<p>Lastly, it is not possible for the Scheme to be “subsequently maintained prior to the completion of the development” as the maintenance of the Scheme will continue during the lifetime of the authorised development.</p>
67.18	<p><u>Schedule 2, Part 2, Procedure for the discharge of requirements</u> Paragraph 18 – We would like this paragraph amended. As a statutory consultee we would like to be included in the provision. <i>“If consultation with a consultee is required, the relevant planning authority must issue the consultation to the consultee within five business days of receipt of the application and notify the undertaker in writing specifying any further information requested by the consultee within five business days of receipt of such a request.”</i></p>	<p>The “application” referred to in paragraph 18 is the application set out in paragraph 17 being an application for any consent, agreement, or approval.</p> <p>Where consultation is required pursuant to an application under paragraph 17, paragraph 4 would apply. Paragraph 4 makes clear that it is not the arbiter of the discharge of the requirement who would carry out the consultation but the undertaker. Where the undertaker is applying to discharge a requirement which requires detailed to be submitted following consultation with another party, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker.</p> <p>Therefore, the Applicant would request that the Environment Agency clarify what their proposed drafting is intended to cover.</p>
Book of Reference		
67.19	<p>We can concur that the Environment Agency’s does not have any land interest that falls within the red boundary provided.</p>	Noted.

Response Reference

Written Representation Issue

Applicants Response

Key Issues - Biodiversity

67.20

5.1 Bank Erosion and loss of riparian habitat		
Chapter 7: Biodiversity	Issue	It is assumed that hard engineered bank protection will be required underneath the new bridge structure, due to an increased likelihood of bank erosion (caused in part by shading acting to remove bankside vegetation). At this stage, the details of the bank protection have not been determined but it has been assumed that the length will equal that of the width of the bridge deck and comprise of hard bank protection (e.g. rip-rap or non-biodegradable geotextile) as a worst case scenario.
Section/pages/table reference: 7.8.11 and 7.8.12.	Impact	This may cause permanent modification and potential localised loss of marginal lamprey ammocoete habitat.
	Solution	A bioengineered "green solution" would be used to transition from the grey bank protection to the natural banks up and downstream of the crossing. At the detailed design stage, further assessment and consultation with the Environment Agency is required to minimise and, where possible, exclude hard engineered or inappropriate bank protection and maximise habitat compensation.

As outlined in the Applicant's response to Relevant Representations (REP1-043) the Register of Environmental Actions and Commitments (REAC) [REP1-030] states:

'WE4: At the detailed design stage, further assessment (including a scour assessment) will determine the most pragmatic solution and confirm the need for bank protection, specify the materials and general arrangement which will aim to minimise and, where possible, utilise soft solutions rather than hard bank protection. This will be agreed through consultation with the Environment Agency.'

The Applicant therefore considers that the Environment Agency's involvement in the process of detailed design is sufficiently controlled for this element of the Scheme.

Response Reference

Written Representation Issue

Applicants Response

67.21

5.2 Hard engineering and bank protection		
Environmental Master Plan (EMP)	Issue	The indicative cross-sections in drawing number GCCM5J10 ATK EWE ZZ_PO DR LW 000001 of the reaches up and downstream of the Link Road illustrate an asymmetrical channel with significant additional space for river processes, primarily as a result of lowering the inside bends, up stream of the Link Road in particular. The current iteration shows a relatively uniform bank top (bank full) width which has 'smoothed out' to some extent the existing meandering form.
Section/pages/table reference: Indicative River Chelt Link Road River Cross-Sections GCCM5J10 ATK EWE ZZ_PO DR LW 000001	Impact	The Chelt in particular is very geomorphologically active, particularly between the edges of Cheltenham and the M5, where it is naturalising following historic straightening and re-sectioning. It suffers from excessive incision which needs to be redressed and anticipated in any design.
	Solution	The final iteration of the channel cross sections should show more diversity in gradient in all elements of channel geometry to create an attractive naturalistic channel with improved functionality. In the expectation of further dialogue with the Environment Agency e.g. in the context of Flood Risk Activity Permit (FRAP) /statement of common ground etc we can offer more detailed feedback on all the river enhancement commitments to maximise benefits and optimise the designs of the interventions.

The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.9. For ease. the Applicant's response is repeated below.

The drawings provided in these plans are indicative plans which will be developed further at detailed design and therefore the indicative cross section drawings are not intended to be relied upon as the final design of the channel.

The Applicant agrees that creating a two staged channel by pulling back the bank tops has created a wider, less sinuous bank top. However, there remains a low flow channel which has maintained its naturally sinuous platform. The principles behind this approach are set out below:

- The channel is over deep due to the incision with very steep, vertical banks upstream of the Link Road which are subject to significant erosion.
- The channel is known to be active in this reach and the Applicant agrees it is naturalising through lateral migration and bank erosion during high flow events.
- By pulling the bank tops back, the Applicant aims to aid this natural process by improving lateral connectivity and creating more opportunity for the channel to adjust and be more diverse under the low and moderate flow events.
- The additional space created by pulling the existing bank tops away from the watercourse will reduce the erosive potential in high flow events and prevent further incision. This method is expected to help maintain the sinuosity of the low flow channel.

There will be an opportunity to review and amend the channel design at the Detailed design stage as outlined in the REAC (WE4). In particular, to ensure the design appropriately considers the active geomorphological nature of the channel, but also ties-in with the overall design.

Response Reference

Written Representation Issue

Applicants Response

67.22

5.3 Dean brook, River Swilgate and Hatherley brook		
Chapters: Environmental Statement	Issue	Dean brook, River Swilgate and Hatherley brook aren't labelled, highlighted or included in the assessment screening outcome. All three are within hydrological catchment of the Severn estuary and support qualifying species of the protected site.
Section/pages/able reference: Land Plans - APP 2.2 /APP/2.2 LAND PLANS REGULATION 5(2)(i) SHEET 1, 2 and 10 OF 16 Appendix 7.12 Aquatic ecology survey – APP 6.15 FIGURE7-12A	Impact	The carriageway and potentially some additional land over Dean brook, River Swilgate and Hatherley brook are within the red line boundary and shown as land to be used temporarily. More clarification/confirmation is needed as to what works are taking place (if any) that might affect this watercourse directly or indirectly and the significance of being in land used temporarily? There doesn't appear to be any planned. Additionality of current proposal to significant legacy environmental impacts of M5; loss of habitat, habitat connectivity and increased risk to otters etc. In additions to culverts and training walls under M5 the Swilgate suffered significant unsympathetic realignment at the toe of the M5. The scale of proposed mitigation on the Chelt itself and ditch network at headwaters of Chelt and headwater ditch network not commensurate with impact.
	Solution	If it is not possible to further extend the order/red line boundary limits on the Chelt to accommodate longer lengths for compensation habitat enhancement, we strongly advocate retrofitting otter passes to all relevant watercourses within redline boundary – scheme wide approach. Opportunities to offer mitigation on these watercourses within the estate of Highways and red line boundary mitigation or enhancement.

The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.10. For ease, the Applicant's response is repeated below with amendments made to reflect updated Examination reference library for Deadline 1 where required,

As explained in Appendix 7.12 Aquatic Ecology Survey [APP-098], the River Swilgate, Hatherley Brook and Dean Brook are all identified as being within the study area, but are then screened out of further assessment, thus they have not been carried through to the main Biodiversity Chapter [REP1-012]. The reasoning for this was that these watercourses are not within the footprint of the works and have no downstream hydrological connectivity to likely Scheme impacts.

Whilst these watercourses are within the Order limits, they are outside of the Scheme Boundary as defined in at paragraph 7.4.11, Biodiversity Chapter [REP1-012]. This is because this area of the Order limits does not contain any substantive works which communicate with these watercourses.

Where the Order limits extend along the M5, in the location of the Dean brook, River Swilgate and Hatherley brook, the only works proposed are the installation of signs in discrete locations, which will require minor vegetation clearance of up to approximately 20m² plus some minor trimming back of vegetation up to a distance of 180 m in front of the sign to ensure visibility. These signage locations can be micro-sited to avoid/minimise ecological impacts. These small-scale works are consistent with routine highway maintenance works. 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 and is considered to be proportionate. Therefore, these areas have been excluded from assessments to inform the ES. The Applicant understands that Natural England are in agreement with this approach, as set out in the Statement of Common Ground [REP1-037].

Response Reference	Written Representation Issue	Applicants Response												
		<p>Addressing legacy environmental issues (such as existing culverts under the M5) that are not connected to the Scheme proposals should be secured by an alternative route; it is not appropriate to link such measures to the Scheme.</p> <p>Extending the Order limits to accommodate longer lengths of the River Chelt is considered to be disproportionate for the impacts. Retrofitting otter passes to all relevant watercourses within the Order limits is not considered appropriate given that no impacts to the Dean Brook, River Swilgate and Hatherley Brook are anticipated as a result of the Scheme, and therefore they have been excluded from assessments to inform the ES.</p>												
67.23	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="344 699 1160 721">5.4 Leigh Brook</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 724 510 810">Chapters: Chapter 7 Biodiversity</td> <td data-bbox="517 724 629 810">Issue</td> <td data-bbox="636 724 1160 810">Impacts to Leigh Brook not adequately characterised or mitigated.</td> </tr> <tr> <td data-bbox="344 815 510 1193">Section/pages/table reference: Table 7-15 7.8.136. Table 7-16</td> <td data-bbox="517 815 629 1193">Impact</td> <td data-bbox="636 815 1160 1193">The extension Leigh Brook Culvert under the M5 0.02 km of open channel and riparian habitat will be permanently lost due to the extension of the Leigh Brook culvert to accommodate the installation of the two northern slip roads. Construction activities such as excavation and plant/material movements to accommodate the culvert extension and channel realignment, may result in temporary disturbance to other aquatic species and riparian species. Although we agree that the section of the Leigh Brook within and immediately adjacent to the Scheme may not support a significant fish population, due to poor habitat quality and intermittent flow. We do not agree that this will act to limit the presence of key sensitive species, such as migratory eel, as much as stated.</td> </tr> <tr> <td data-bbox="344 1198 510 1241"></td> <td data-bbox="517 1198 629 1241">Solution</td> <td data-bbox="636 1198 1160 1241">Reconsider impacts to Leigh Brook, and proposed mitigation.</td> </tr> </tbody> </table>	5.4 Leigh Brook			Chapters: Chapter 7 Biodiversity	Issue	Impacts to Leigh Brook not adequately characterised or mitigated.	Section/pages/table reference: Table 7-15 7.8.136. Table 7-16	Impact	The extension Leigh Brook Culvert under the M5 0.02 km of open channel and riparian habitat will be permanently lost due to the extension of the Leigh Brook culvert to accommodate the installation of the two northern slip roads. Construction activities such as excavation and plant/material movements to accommodate the culvert extension and channel realignment, may result in temporary disturbance to other aquatic species and riparian species. Although we agree that the section of the Leigh Brook within and immediately adjacent to the Scheme may not support a significant fish population, due to poor habitat quality and intermittent flow. We do not agree that this will act to limit the presence of key sensitive species, such as migratory eel, as much as stated.		Solution	Reconsider impacts to Leigh Brook, and proposed mitigation.	<p>The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.11. For ease, the Applicant's response is repeated below with amendments made to reflect updated Examination reference library for Deadline 1 where required,</p> <p>It Is recognised that European eel have wide-ranging habitat requirements and are found in a variety of aquatic features (rivers, lakes, ditches etc). However, the Leigh Brook is considered to be sub-optimal habitat for all fish species, and likely to typically only support common small species, such as 3-spined stickleback, if any fish at all (see paragraph 7.6.155 of the Biodiversity Chapter (REP1-012)). The reasoning for this assessment is due to low water levels and limited 'truly' aquatic habitat within the Leigh Brook at the point of interaction with the Scheme.</p> <p>The Applicant acknowledges that during periods when the Leigh Brook conveys flows/holds water, it may act as a suitable resource for migrating European eel within the wider catchment (see Table 3-6 in Appendix 7.12 Aquatic Ecology Survey [APP-098]). However, the Leigh Brook is not considered in itself to be a viable resource for long-term</p>
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	Solution	Reconsider impacts to Leigh Brook, and proposed mitigation.												

Response Reference	Written Representation Issue	Applicants Response												
		<p>adult eel development due to very low water levels. Moreover, at the point of interaction with the Scheme the Leigh Brook is unlikely to be a key migration route given there is limited upstream habitat which would be suitable for this species. Whilst there is potential for individual eel to utilise the reach at times, it is considered unlikely that this is a common occurrence.</p> <p>Following consultation with the Environment Agency, additional mitigation has been included within the Biodiversity chapter (REP1-012), the WFD assessment (REP1-026) and the Register of Environmental Actions and Commitments (REAC) (REP1-030)): B28 as part of Deadline 1 to mitigate any potential impacts to fish as a result of construction of the Barn Farm Culvert extension on the Leigh Brook.</p> <p>For further information on the Leigh Brook see photographs within the Appendix 8.2 WFD Compliance Assessment (REP1-026) and Appendix 7.12 Aquatic Ecology Survey [APP-098].</p>												
67.24	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="342 855 1160 879">5.5 Eels</th> </tr> </thead> <tbody> <tr> <td data-bbox="342 887 510 1062">Chapters: Appendix 7.14 Habitat Regulations Assessment – Statement</td> <td data-bbox="521 887 633 1062">Issue</td> <td data-bbox="645 887 1160 1062">Value of watercourses other than the Chelt for eel may have been underestimated. The Leigh Brook and some of the other affected watercourses have some potential to support Catadromous fish namely eel. Eel also routinely frequent heavily modified drainage ditches.</td> </tr> <tr> <td data-bbox="342 1070 510 1134">Section/pages/able reference:</td> <td data-bbox="521 1070 633 1134">Impact</td> <td data-bbox="645 1070 1160 1134">Potential disturbance, injury or mortality to eels during construction.</td> </tr> <tr> <td></td> <td data-bbox="521 1142 633 1190">Solution</td> <td data-bbox="645 1142 1160 1190">Consider impacts on eels in other watercourses other than the Chelt.</td> </tr> </tbody> </table>	5.5 Eels			Chapters: Appendix 7.14 Habitat Regulations Assessment – Statement	Issue	Value of watercourses other than the Chelt for eel may have been underestimated. The Leigh Brook and some of the other affected watercourses have some potential to support Catadromous fish namely eel. Eel also routinely frequent heavily modified drainage ditches.	Section/pages/able reference:	Impact	Potential disturbance, injury or mortality to eels during construction.		Solution	Consider impacts on eels in other watercourses other than the Chelt.	<p>The Applicant has responded to this point within the Applicant’s Response to Relevant Representations (REP1-043) at point 13.14. For ease, the Applicant’s response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Leigh Brook and other minor tributaries and ditches within the Study Area are heavily modified drainage channels relatively near their source, often choked with vegetation. The Leigh Brook is the largest of these minor watercourses yet exhibits low flow conditions within the study area demonstrated by the ‘no perceptible’ flow type recorded within MoRPh survey and observations of stagnant pools (see Appendix 7.12 Aquatic Ecology Survey [APP-098].) Whilst it is recognised that European eel have wide-ranging habitat requirements and are found in a variety of aquatic features (rivers, lakes, ditches etc), the watercourses listed above are considered unlikely to provide suitable habitat for long term adult eel development due to very low water levels (as discussed in the Applicant response 13.11). In addition, it is not</p>
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Response Reference	Written Representation Issue	Applicants Response												
		<p>expected that realignments or culvert works on these watercourses would take place during high flows, when eel could potentially utilise these systems, if they do. This would therefore reduce risk to this species further.</p> <p>However, following consultation with the Environment Agency, additional mitigation has been included within the Biodiversity chapter updated at Deadline 1 (REP1-012), the WFD assessment (: REP1-026) and the Register of Environmental Actions and Commitments (REAC) [REP1-030]: B28 as part of Deadline 1 to mitigate any potential impacts to fish as a result of construction of the Barn Farm Culvert extension on the Leigh Brook.</p>												
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	Solution	We would recommend you improve the physical design of the basins to make a meaningful contribution to this species and other wildlife.												

Response Reference	Written Representation Issue	Applicants Response
		<p>habitat to support GCNs and GCNs will breed in temporary ponds and use waterbodies which dry out in summer months.</p> <p>The design submitted for DCO will provide 10% Biodiversity Net Gain this includes terrestrial habitat which will benefit GCNs.</p> <p>The ponds are designed to meet Tewksbury Borough Council's requirement that attenuation ponds should have a maximum depth of 1.2m. Retaining a permanent water volume in the ponds would reduce the available storage volume. Thus, the ponds would need to increase in size, potentially up to 6m radius, to accommodate a permanent water volume. Unfortunately, it is not possible to accommodate larger attenuation ponds within the Red Line Boundary whilst avoiding site constraints, such as utilities.</p> <p>During detailed design, consideration will be given to undulating the base of the attenuation ponds to retain pools of water for as long as possible. Opportunities to include escape routes for GCNs from the highway gullies will also be included where feasible.</p>

Key Issues – Flood Risk

67.26	<table border="1"> <tr> <td colspan="3" data-bbox="340 922 1169 954">6.1 Flood risk Impacts Technical Note TR010063 – APP 9.20</td> </tr> <tr> <td data-bbox="340 954 510 1023">2.4.4</td> <td data-bbox="510 954 631 1023">Issue</td> <td data-bbox="631 954 1169 1023">Flood plain compensation for the West Cheltenham Link Road is provided by the main storage area for the scheme which is on a different watercourse</td> </tr> <tr> <td></td> <td data-bbox="510 1023 631 1098">Impact</td> <td data-bbox="631 1023 1169 1098">There are some minor detriments (circa 20mm increases in level) predicted by the modelling downstream of the proposed link road</td> </tr> <tr> <td></td> <td data-bbox="510 1098 631 1289">Solution</td> <td data-bbox="631 1098 1169 1289">Any flood plain mitigation works should be undertaken directly adjacent to the two minor watercourses, or the pond designed and located in such a way to avoid encroachment into the flood plain following best practice guidelines. It is not appropriate to provide overcompensation in the large wetland flood storage area for the main scheme as this is on a different watercourse.</td> </tr> </table>	6.1 Flood risk Impacts Technical Note TR010063 – APP 9.20			2.4.4	Issue	Flood plain compensation for the West Cheltenham Link Road is provided by the main storage area for the scheme which is on a different watercourse		Impact	There are some minor detriments (circa 20mm increases in level) predicted by the modelling downstream of the proposed link road		Solution	Any flood plain mitigation works should be undertaken directly adjacent to the two minor watercourses, or the pond designed and located in such a way to avoid encroachment into the flood plain following best practice guidelines. It is not appropriate to provide overcompensation in the large wetland flood storage area for the main scheme as this is on a different watercourse.	<p>The Scheme as currently designed proposes to compensate the volume of floodwater from the ordinary watercourse that is displaced by the works at the southern end of the Link Road through two means:</p> <ol style="list-style-type: none"> 1. having the permanent right to store additional water alongside the ordinary watercourse itself; and 2. oversizing the main flood storage next to the M5 J10, off the River Chelt. <p>In order to respond to the River Chelt floodplain loss as a result of the Link Road proposals, compensatory floodplain is being provided on a like for like replacement (or on a level for level basis) for the Link Road north of the River Chelt (Works Plan no. 5n).</p>
6.1 Flood risk Impacts Technical Note TR010063 – APP 9.20														
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	Solution	Any flood plain mitigation works should be undertaken directly adjacent to the two minor watercourses, or the pond designed and located in such a way to avoid encroachment into the flood plain following best practice guidelines. It is not appropriate to provide overcompensation in the large wetland flood storage area for the main scheme as this is on a different watercourse.												

Response Reference	Written Representation Issue	Applicants Response
		<p>The Scheme recognises the displacement of floodwater caused by the Scheme at the southern end of the Link Road, and the subsequent minor impact on flood levels on the farmland alongside the Staverton Stream. An area of flood storage is proposed beside the ordinary watercourse (Works Plan no 3e, 5n and 6d), which is predicted to store an extra 10-30 mm of water during the 20% annual exceedance probability event (1 in 5-year return period) and 1 in 10-year return period. This land is inside the Order limits but outside the permanent land take such that it has a temporary possession with a permanent right to store additional water. The flood modelling identified a benefit of a 90 minute (20%) reduction in flooded duration of that farmland in the 1 in 5 year event.</p> <p>There is a non-material increase in flood risk to three fields, based on an associated indiscernible increase in flood frequency (which already flood at the 20% annual exceedance probability event (1 in 5-year return period)) and no change in the consequence of flooding. Negligible impact on flood depths were predicted for larger events, and the hydraulic modelling predicted no adverse impact at the design flood.</p> <p>Despite having no material increase on flood risk elsewhere (probability and consequence), the Applicant is consulting with the affected landowners to demonstrate that they are fully aware of, and accept, the small increases in peak flood level. At the same time rights are also being sought through the dDCO for areas of flooding on the farmland which are listed in the Works Plans as Flood Compensation (Works Plan no. 3e, 5n, and 6d).</p> <p>It is recognised that the large flood storage basin (Works Plan no. 7) is not within the same WFD or hydrological catchment as the Staverton Stream ordinary watercourse – although that ordinary watercourse is a tributary of the River Chelt. The beneficial impact of the oversized flood storage area will be realised downstream of Boddington where the Staverton Stream joins the River Chelt.</p>

Response Reference	Written Representation Issue	Applicants Response																					
67.27	<table border="1"> <tr> <td colspan="3" data-bbox="342 480 1167 501">6.2 Volume 6. (Appendix 8.1 Flood Risk Assessment Part 1 of 2)</td> </tr> <tr> <td data-bbox="342 505 510 526">5.4.26 – 5.4.47</td> <td data-bbox="517 505 629 526">Issue</td> <td data-bbox="636 505 1167 526">Provision of flood plain compensation scheme.</td> </tr> <tr> <td></td> <td data-bbox="517 531 629 552">Impact</td> <td data-bbox="636 531 1167 576">Failure to provide an appropriate scheme will result in impacts to third parties.</td> </tr> <tr> <td></td> <td data-bbox="517 580 629 601">Solution</td> <td data-bbox="636 580 1167 699">Whilst a scheme has been agreed in principle no detail designs have been submitted as would be expected to support the application. Whilst this could be conditioned it would have been preferable to have seen detailed designs submitted.</td> </tr> <tr> <td data-bbox="342 703 510 724">5.4.95 – 5.4.99</td> <td data-bbox="517 703 629 724">Issue</td> <td data-bbox="636 703 1167 724">Right to increase flood levels through the DCO.</td> </tr> <tr> <td></td> <td data-bbox="517 729 629 750">Impact</td> <td data-bbox="636 729 1167 774">Where full flood plain compensation cannot resolve all flood risk impacts over the lifetime of the development.</td> </tr> <tr> <td></td> <td data-bbox="517 778 629 799">Solution</td> <td data-bbox="636 778 1167 895">A legal agreement with those landowners affected should be submitted as part of this review based on the evidence set out within the Flood Risk Assessment (FRA) in line with common land drainage law or alternative mitigation provided.</td> </tr> </table>	6.2 Volume 6. (Appendix 8.1 Flood Risk Assessment Part 1 of 2)			5.4.26 – 5.4.47	Issue	Provision of flood plain compensation scheme.		Impact	Failure to provide an appropriate scheme will result in impacts to third parties.		Solution	Whilst a scheme has been agreed in principle no detail designs have been submitted as would be expected to support the application. Whilst this could be conditioned it would have been preferable to have seen detailed designs submitted.	5.4.95 – 5.4.99	Issue	Right to increase flood levels through the DCO.		Impact	Where full flood plain compensation cannot resolve all flood risk impacts over the lifetime of the development.		Solution	A legal agreement with those landowners affected should be submitted as part of this review based on the evidence set out within the Flood Risk Assessment (FRA) in line with common land drainage law or alternative mitigation provided.	<p>Consideration was made, during the preliminary design, of reducing ground levels across the farmland to provide additional storage. However, the shallow depths of flooding in this area would have required earthworks across larges area of farmland, with subsequent environmental impacts.</p> <p>The Applicant has responded to this point within the Applicant’s Response to Relevant Representations (REP1-043) at point 13.17. For ease, the Applicant’s response is repeated below with amendments made to reflect Examination reference library.</p> <p>Flood compensation will be required during the construction phase to offset the losses. This is described in the Register of Environmental Commitments (REP1-030) under item WE17, which states:</p> <p>“To mitigate the impact of permanent earthworks within the wider floodplain, construction work will be phased so that floodplain storage and compensation areas are constructed prior to loss of floodplain volume to ensure no overall adverse impact. Compensatory floodplain to offset the volume of water displaced by the Scheme during the design flood, will be implemented prior to the removal of any existing floodplain. This includes a flood storage basin between the M5 motorway and Withybridge Lane (Work No. 7), and two areas of compensatory floodplain immediately east of the West Cheltenham Link Road (Work No. 5n) and north of the B3634 (Work No. 6d)”.</p> <p>The Applicant recognises the need to avoid locating construction compounds and stockpiles in the floodplain. This is described in the Register of Environmental Commitments (REP1-030) under item WE15, which states:</p> <p>“Construction activities including temporary works, storage, and compounds within the functional floodplain will be minimised as far as possible.”</p>
6.2 Volume 6. (Appendix 8.1 Flood Risk Assessment Part 1 of 2)																							
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	Solution	A legal agreement with those landowners affected should be submitted as part of this review based on the evidence set out within the Flood Risk Assessment (FRA) in line with common land drainage law or alternative mitigation provided.																					

Response Reference	Written Representation Issue	Applicants Response
		<p>The Applicant recognises the need for a flood management plan during construction. This is described in the Register of Environmental Commitments (REP1-030) under item WE15, which states:</p> <p>“A Flood Management Plan will be produced as part of the Emergency Preparedness and Response Plan, to be produced in the EMP (2nd iteration), and secured under Schedule 2, Requirement 3(2)(e)(viii) of the DCO.”</p> <p>The DCO application provides the preliminary design, in terms of a location and size (volume) required for the flood storage and compensatory floodplain. Detailed design will be undertaken at the next stage of the project.</p> <p>The question of landowner agreement is a matter of ongoing correspondence between the Applicant and the landowners. Consultation is underway and ongoing.</p>
67.28	<p>We have reviewed the Flood Risk Assessment (FRA) prepared by Atkins dated December 2023 as set out in Appendix 8.1 of the Environment Statement.</p> <p>We have no objections to the proposals in principle from a flood risk perspective as the evidence presented to support the Development Consent Order (DCO) meet the requirements set out within the National Planning Policy Framework (NPPS) in relation to flood risk.</p>	<p>The Applicant response to this point is included within the Applicant’s Response to Relevant Representations point 13.18 (REP1-043). For ease, the Applicant’s response is repeated below.</p> <p>Noted that the Environment Agency has no objections to the proposals in principle from a flood risk perspective as the evidence presented to support the Development Consent Order (DCO) meets the requirements set out within the National Planning Policy Framework (NPPS) in relation to flood risk.</p>
67.29	<p>Flood Risk Vulnerability</p> <p>We concur that the overall scheme should be designated as ‘Essential Infrastructure’ as defined in Annex 3 of the National Planning Policy Framework.</p>	<p>The Applicant acknowledges that the EA concurs with the Applicant that the overall Scheme should be designated as ‘Essential Infrastructure’ as defined in Annex 3 of the National Planning Policy Framework. The matter ref: 1.1 in the revised iteration of the SoCG submitted at Deadline 1 (REP1-036), which relates to this designation will be moved to matters agreed in the next iteration of the SoCG to be submitted to the ExA.</p>

Response Reference	Written Representation Issue	Applicants Response
67.30	<p>Flood Zones</p> <p>The alterations to the current motorway junction and proposed new link road are in all flood zones as shown on our Flood Map for Planning (including parts of Flood Zone 3b) and defined in Table 1 of the Flood and Coastal Change section of the National Planning Practice Guidance (NPPG).</p>	Noted.
67.31	<p>Sequential Test</p> <p>Reference to the sequential test is set out in paragraphs 2.2.15 to 2.2.18 of the FRA and the Environment Agency considers that this is a matter solely for the Inspector to determine, we would make no further comment on this matter.</p>	Noted.
67.32	<p>Exception Test</p> <p>Whilst Essential Infrastructure can be located within all Flood Zones the notes highlighted to table 2 in paragraph 079 of the National Planning Policy Guidance need to be adhered to as highlighted in paragraph 4.3.11 of the FRA.</p>	Noted.
67.33	<p>Flood Risk Information</p> <p>The applicant has submitted detailed hydraulic modelling to the Environment Agency as part of pre-application discussions with regards the scheme. This included a 'baseline' model of the existing situation that was reviewed and 'signed off' as acceptable to use by the Environment Agency in April 2022. A follow on 'preferred options' model was also submitted for review and signed off by us in June 2023. This final model allowed the applicant to assess the potential impacts of the scheme and propose/test appropriate mitigation measures.</p>	Noted.
67.34	<p>Climate Change</p>	Noted.

Response Reference	Written Representation Issue	Applicants Response
	<p>The FRA has identified the correct uplifts to fluvial flooding that should be used to assess the potential impacts of climate change over the lifetime of the development as set out in paragraph 4.4.4.</p> <p>The impacts have formed part of the previously mentioned hydraulic modelling works</p>	
67.35	<p>Other Forms of Flooding</p> <p>We concur with the conclusions set out within paragraph 3.7 and table 3.3 of the FRA in relation to other forms of flooding.</p>	Noted.
67.36	<p>Exemption Test Principles</p> <p>Following on from the model reviews the applicant has submitted initial details for flood mitigation proposals to meet the requirements of the principles that must be met as listed in paragraph 079 of the NPPG.</p>	Noted.
67.37	<p>Remain operational and safe for users in times of flood.</p> <p>The Design Flood Level which includes an appropriate 53% uplift for the potential impacts of climate change over the lifetime of the development has been used and additional freeboards applied to ensure that the link road remains operational along with all flood risk infrastructure such as the flood culverts (which are positioned where key out of bank flood flow routes currently exist in Flood Zone 3b) and river bridge meet appropriate design criteria.</p>	Noted.
67.38	<p>Result in no net loss of floodplain storage.</p> <p>Whilst appropriate level for level, volume for volume flood plain compensation has been difficult to obtain the overall volume of compensation provided and its location shows that no significant impacts will result from the development.</p> <p>This has been supported by the detailed preferred option hydraulic modelling. However, where some minor impacts do still occur outside of</p>	<p>The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.21. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Scheme will result in no net loss of floodplain storage by virtue of the floodplain storage and compensatory floodplain. This is described in the Flood Risk Assessment [AS-023], summarised in paragraph 7.2.2.</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>the proposed compensation areas the applicant must obtain the agreement of the effected landowner as part of the DCO process.</p> <p>It is also key that any proposed compensation works are undertaken prior to construction of the scheme commencing within the flood plain that would also minimise impacts during the construction phase.</p> <p>However, the level of detail provided on the final compensation designs is deemed limited and several documents referred to within the FRA such as the Baseline and Scheme Hydraulic Modelling Reports have not been included within the submissions, which contain further relevant details to support the application.</p>	<p>The predicted minor impacts in flood risk to farmland are considered non-material and are being consulted upon with the landowners. The land affected is included in the DCO Order limits. There are no increases in flood risk to property.</p> <p>Flood compensation will be required during the construction phase to offset the losses. This is described in the Register of Environmental Commitments (REP1-030) under item WE17, which states:</p> <p>“To mitigate the impact of permanent earthworks within the wider floodplain, construction work will be phased so that floodplain storage and compensation areas are constructed prior to loss of floodplain volume to ensure no overall adverse impact. Compensatory floodplain to offset the volume of water displaced by the Scheme during the design flood, will be implemented prior to the removal of any existing floodplain. This includes a flood storage basin between the M5 motorway and Withybridge Lane (Work No. 7), and two areas of compensatory floodplain immediately east of the West Cheltenham Link Road (Work No. 5n) and north of the B3634 (Work No. 6d)”.</p> <p>The DCO application provides the preliminary design, in terms of a location and size (volume) required for the flood storage and compensatory floodplain. Detailed design will be undertaken at the next stage of the project. The Baseline and Scheme Hydraulic Modelling Reports have been added to the Flood Risk Assessment as appendices within the submissions (AS-047 and AS-048 respectively). These contain further relevant details and evidence to support the application.</p> <p>The Applicant understands that the statement made here by the Environment Agency is not an objection but raised for information and that the Environment Agency is satisfied that the Scheme will not impede water flows and not increase flood risk elsewhere.</p>
67.39	Not impede water flows and not increase flood risk elsewhere.	The Applicant has responded to this point within the Applicant’s Response to Relevant Representations (REP1-043) at point 13.22. For

Response Reference	Written Representation Issue	Applicants Response
	<p>The proposed design includes flood culverts beneath the carriageway embankment within critical areas of out of bank flood flows within the functional flood plain (Flood Zone 3b).</p> <p>The new bridge across the River Chelt also takes account of the impacts of climate change, though the description within the FRA and the drawings submitted do not align. The hydraulic modelling also confirms that whilst structures would potentially impact on out of bank flow routes, these impacts can be mitigated for.</p> <p>Hence it is considered that in principle the above key requirements of the exception test can be passed subject to appropriately worded conditions to ensure the works are delivered.</p>	<p>ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Scheme will not impede water flows by virtue of the culverts placed underneath the Link Road and extension of other existing culverts to ensure hydraulic connectivity. The Scheme will impede water flows between the River Chelt and Leigh Brook, preventing them from overtopping the A4019. The flood storage mitigates for the impact of raising the A4019. This is described in the Flood Risk Assessment [AS-023], summarised in paragraph 7.2.2.</p> <p>The description of the new bridge across the River Chelt within the Flood Risk Assessment indicates a 24 m wide span with the deck soffit set at least 600 mm above the predicted design flood level of 27.7 m AOD. The abutments are to be set back from the river banks by 4 m on the north and 8 m on the south, permitting access under the bridge on both banks if required. Sheet 4 of 12 within the Engineering Drawings and Sections [APP-017] shows a 24.00m clear span. A 4m wide easement is labelled off the north bank of the River Chelt, and a similar width, undimensioned, easement is shown off the southern bank. The Flood Risk Assessment, which references an 8m wide easement, is superseded and refers to a much earlier design option.</p> <p>Minor impacts on flood risk are predicted to farmland are whilst considered nonmaterial are being consulted upon with the landowners. The land affected is included in the DCO Order limits. There are no increases in flood risk to property and there is no material increase in flood risk elsewhere.</p> <p>The Applicant understands that the statement made here by the Environment Agency is not an objection but raised for information and that the Environment Agency is satisfied that the Scheme will not impede water flows and not increase flood risk elsewhere.</p>
67.40	Regulatory Easements and need for other permissions.	The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.23. For

Response Reference	Written Representation Issue	Applicants Response
	<p>Elements of the proposals will also require the prior separate formal permission of the Environment Agency under the Environmental Permitting Regulations (2016) and it is noted that the DCO does not seek to disapply these requirements.</p> <p>However, this process is seen as secondary to formal planning permission in relation to the final proposed designs and required mitigation in relation to flood risk, which should have been submitted.</p>	<p>ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Scheme provides the preliminary design, in terms of a location and size (volume) required for the flood storage and compensatory floodplain. Detailed design will be undertaken at the next stage of the project.</p> <p>The DCO does not disapply the Environmental Permitting (England and Wales) Regulations 2016 and therefore Flood Risk Activity Permits will be required. These will be sought at the detailed design stage.</p> <p>The Applicant understands that the statement made here by the Environment Agency is not an objection but raised for information and that the Environment Agency is satisfied that the Scheme will not impede water flows and not increase flood risk elsewhere.</p>
<p>Key Issues – Flood Risk Modelling and Hydrology</p>		

Response Reference

Written Representation Issue

Applicants Response

67.41

7.1 Ordinary watercourse modelling		
	Issue	Modelling not reviewed by the Environment Agency
	Impact	Flood risk could be misrepresented and impacts misunderstood
	Solution	At the Statement of Common Ground meeting with Atkins on the 5th June 2024 it was stated by Atkins that the Lead Local Flood Authority have reviewed this model and are happy with it. Having reviewed our internal guidance regarding reviewing models for flood risk assessments (LIT 14594), this indicates that the Environment Agency should undertake a detailed review of the model given that the development is classed as essential infrastructure. On this basis we would like to see a copy of the modelling for the ordinary watercourse. We appreciate the risks are low here and the LLFA have already reviewed the model report. This should be a quick exercise for the Environment Agency to satisfy itself that the modelling is reasonable.

The Applicant has responded to this point by submitting to the Environment Agency (on 25 June 2024) a copy of the ICM model via the EA sharefile service.

Key Issues – Water Quality

67.42

8.1 Volume 6. Chapter 8 – Road Drainage and the Water Environment		
Section 8.7.47	Issue	This section, and section 8.9.13, states that spillage control measures will contain spillages and prevent pollutants from reaching controlled waters if a spill were to occur. Although these measures reduce the risk of spillages reaching the

The Applicant has responded to this point within document Applicant's Response to Relevant Representations (REP1-043) at point 13.30. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.

This comment now relates to section 4.7.48 which has been updated following progression of the Statement of Common Ground. The wording of this section has been updated in the Deadline 1 submission to state the mitigation would provide the containment for potential spillage rather than it would contain a spill and prevent it from reaching the water receptors.

Response Reference

Written Representation Issue

Applicants Response

		environment, they are unlikely to be able to prevent serious spills (for example a collision involving a HGV tanker carrying polluting material) from entering a watercourse.
	Impact	The Highways England Water Risk Assessment Tool (HEWRAT) spillage assessment quoted considers the risk of pollution from serious spillages. The assumption that the proposed control measures will prevent any contamination from reaching a watercourse is therefore incorrect.
	Solution	Although the Environment Agency agrees that the output of the HEWRAT appears to suggest a low risk of a pollution occurring as the result of a spillage, it should not be assumed that the pollution will be stopped in the event that one does occur. Therefore, a plan should be in place if an event does occur.

Noting the different roles performed by GCC in this application, the Applicant has sought the following answer from GCC Highways with regard to spillage control measures and pollution prevention, specifically in relation to serious spills if one were to occur and the example raised:

GCC Highways operates a 24 hour 7 days a week emergency response through its 08000 514 514 contact number. GCC Highways Duty Managers and Contractors Duty Supervisors are on call out of hours.

Report of a pollution issue – GCC Highways receive these from a number of channels but normally due to road traffic collisions where Police and Fire Services are normally on scene first and take control. GCC Highways are then brought in to deal with traffic management and clear up operations, as required.

Dependent upon the type of spillage GCC Highways are dealing with appropriate action will be taken – spill kits, gully covers, a gully emptier or specialist contractor may be utilised, depending on the material being dealt with i.e. blood or hazardous material etc.

These incidents are usually multi agency events and as such specialist advice would be provided by the EA, Fire Service or the haulier/owner of the material and this would be co-ordinated through Civil Protection Team and the Local Resilience Forum.

Response Reference

Written Representation Issue

Applicants Response

67.43

8.2 Register of Environmental Actions and Commitments		
WE1	Issue	Action WE1 focuses on minimising deterioration in surface water quality resulting from construction activities. A key protection measure for water quality is the requirement to hold and adhere to an environmental permit to discharge any trade or dewatering effluent, as well as surface water runoff from areas of exposed soil. Securing and adhering such a permit is not reflected within this action.
	Impact	If this action to protect water quality is not linked to the need for an environmental permit, then the proposed mitigation measures (for instance the EMP) may not line up with the permit requirements. This could result in pollution events or permit non-compliance.
	Solution	The commitment to obtain and adhere to an environmental permit for any discharges should be included within action WE1. The 2 nd iteration of the EMP should reflect how this will be achieved.

The Applicant has responded to this point within document Applicant Response's to Relevant Representations (REP1-043) at point 13.31. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.

The Applicant understands the need for securing and adhering the environmental permits to discharge any trade or dewatering effluent to help minimise deterioration in surface water quality resulting from construction activities. Within the Environmental Management Plan Annex B.7 Pollution Prevention and Control Management Plan and Environmental Management Plan Annex b.6 Emergency Preparedness Response Plan which include Action WE1 it states:

"The construction works will comply with all relevant legislation and regulations to ensure legal construction works as outlined in Chapter 8 Road Drainage and the Water Environment of the ES (Application document TR010063/APP/6.6). Other requirements from the Local Authority (Gloucestershire County Council and Tewkesbury Borough Council), National Highways or other Statutory Bodies (such as Natural England) will be reviewed by the Principal Contractor and applied where applicable."

The commitment text for WE1 covers a range of measures and therefore does not specifically refer to environmental permits for any discharges.

Environmental permits to discharge any trade or dewatering effluent will be dealt with at a later stage under relevant legislation when further details of the discharges and their permit requirements are known.

Key Issues – Groundwater and Contaminated Land

Response Reference

Written Representation Issue

Applicants Response

67.44

9.1 Volume 6. Chapter 10: Geology and Soils		
10.2.15	Issue	<p>There will be a requirement to manage shallow groundwater and/or rainwater ingress were encountered during excavation and earthworks. Whereas any such small-scale dewatering at a rate of <20 m3/d is excluded from permitting, anything more significant will require an abstraction licence if it doesn't meet any of the exemption criteria given in The Water Abstraction and Impounding (Exemptions) Regulations 2017 (legislation.gov.uk)</p> <p>There may also be permit requirements for the subsequent discharge of any waters, unless covered by an exemption too, e.g. Temporary dewatering from excavations to surface water: RPS 261 - GOV.UK (www.gov.uk).</p>
	Impact	<p>Uncontrolled dewatering and/or discharge activities on-site could have an impact upon nearby linked features, such as local wells, watercourses or wetlands.</p>
	Solution	<p>We advise the Applicant to seek early pre-application advice from the Environment Agency's National Permitting Service to understand and prepare for any requirements.</p> <p>Our standard position is that we recommend that the Applicant twin tracks the DCO and permit applications. At present this has not been undertaken, therefore at this stage we cannot give any assurances that the current proposals will be granted environmental permits where needed.</p>

The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.32. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.

The Principal Contractor will produce a 2nd iteration of the Pollution Prevention and Control Management Plan, as part of the Environmental Management Plan 2nd iteration in advance of construction. This will build on and refine the documentation produced for the Development Consent Order submission (the EMP 1st iteration [AS-025] and the Pollution Prevention and Control Plan (1st iteration) [AS-037]. This plan will outline risk assessments undertaken and management protocols to be utilised to manage flood risk, pollution risk, and risk to groundwater. The management protocols will take into account all key legislative, stakeholder and permitting requirements.

As per the Applicants Consents and Position's Consents and Positions Agreement Statement [APP-033] the Applicant is not seeking to disapply regulation 12 Environmental Permitting Regulations 2016 for the purpose of water discharge activities or flood risk activities, sections and 25 of the Water Resources Act 1991 for the purpose of water abstraction licences, or any relevant bylaws made under the Water Resources Act 1991 for the purpose of flood risk activity permits. Once the permitting requirements are fully identified, the Principal Contractor will liaise with the Environment Agency regarding the schedule of submissions, so they are completed in a timely manner.

67.45

Further to our previous response to the Scoping Study (*ref. SV/2021/111053/01-L01*) (response attached) we have now also

The Applicant noted this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.33.

Response Reference	Written Representation Issue	Applicants Response
	<p>reviewed the Environmental Statement for this M5 Junction 10 Improvements Scheme, Chapter 10: Geology and Soils, Appendix 10.7 Ground Investigation Report and Appendix 8.2B WFD Groundwater Impact Assessment and would like to comment as follows, again from a perspective of the protection of Controlled Waters only.</p>	
67.46	<p>We note that superficial deposits of Cheltenham Sand & Gravel and Alluvium are present in the vicinity of the River Chelt and the Leigh Brook, sections of the M5 and also near the A4019 between the M5 Junction 10 and Cheltenham, at depths of 0.2 - 2.7 m below ground level. These are classed as a Secondary A aquifer and are permeable enough to carry substantial groundwater. The Charmouth Mudstone bedrock (a less valuable / unproductive Undifferentiated Aquifer) underlies the Scheme across the majority of the study area, with the Rugby Limestone Member (Secondary A aquifer) present in the south-west of the area only. Made Ground was merely recorded in the vicinity of the existing roads (M5, A4019 and B4634), embankments and structures, with natural topsoil and agricultural activities present in all of the other locations. We understand that no official records of areas of potentially contaminated land or landfills were identified within the study area and no local abstraction licences (public or private) recorded. Also, there are no statutory environmental designations locally.</p>	<p>The Applicant noted this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.33.</p>
67.47	<p>An intrusive ground investigation was undertaken and reported in February 2022. We note that a total of 70 samples were recovered from the area, collected from a range of strata and from depths of between ground level to 5.9 m bgl. No visual indications of contamination were recorded in any of the locations progressed during the investigation and only benzo(a)pyrene was identified above the General Assessment Criteria in soil samples collected from five locations within the existing M5 carriageway footprint. Soil leachate samples and groundwater samples were also collected and assessed against Water Quality Standards (WQS), which did show various concentrations of ammoniacal nitrogen, nitrate, chloride, sulphate, metals and organics in exceedances of the Tier 1 standards. However, it was concluded that there was unlikely to be an unacceptable risk to Controlled Waters receptors from these</p>	<p>The Applicant has responded to this point within its Applicant Response's to Relevant Representations (REP1-043) at point 13.34. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>This comment is presenting a summary of the methodology and findings of the ground investigation as presented in the Geology and Soils chapter (APP-069) and ground investigation assessment report (APP-124).</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>considering that the identified exceedances of metals and inorganics were marginally above the assessment criteria and generally widespread across the Scheme. The concentrations were considered likely to be indicative of natural background concentrations associated with farming and naturally high sulphate derived from the underlying Charmouth Mudstone bedrock. In addition, direct comparison of soil leachate results with Tier 1 WQS does not take into account the dilution and attenuation of contaminants that may occur along the pathway between the source and the nearest receptors and no exceedances of the screening criteria were reported in surface water samples.</p>	<p>It reproduces the wording contained within the ES chapter and is considered to be a statement rather than a question, and therefore not required to be addressed as part of this response.</p>
67.48	<p>It therefore appears that the area in question is ready for redevelopment without the need for further ground investigations, risk assessment or remedial action first. However, 11 we are mindful that the construction activities themselves could potentially introduce new sources of contamination (e.g. from spillages and leaks), expose extracted soils in stockpiles to enhanced leaching and runoff plus create possible new and more direct pollution pathways through piling and/or installation of drainage. The Applicant therefore should aim to undertake –</p> <ul style="list-style-type: none"> • Preparation of piling risk assessments as required in accordance with Environment Agency guidance to assess and manage any risks to Controlled Waters. • Working methods during construction to manage groundwater and surface water appropriately and ensure that there is no run-off from the works, any material / waste stockpiles and/or storage containers into adjacent surface watercourses in accordance with DEFRA and Environment Agency's guidance. • Stockpile management (such as water spraying and avoiding over stockpiling to reduce compaction of soil and loss of integrity) and timely removal of stockpiled soil to prevent windblown dust and surface water run-off. 	<p>The Applicant has responded to this point within Applicant's Response to Relevant Representations (REP1-043) at point 13.35. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Principal Contractor's Construction Environmental Management Plan process requires the identification of all environmental-related risks; whether geographical or activity-based. An Environmental Risk Register will be populated and identify the control measures required. This detail will then be transferred to the Environmental Management Plan (2nd iteration). The environmental risks, and management of, will be briefed to site staff on induction and throughout the construction phase.</p> <p>The Principal Contractor has monitoring processes to ensure measures documented and implemented are effective; this includes qualitative (audits, site inspections) and quantitative (water quality, noise) monitoring.</p> <p>With respect to the specific bullet points raised.</p> <ul style="list-style-type: none"> • Following the completion of the detailed design of the structures, the Principal Contractor will be able to undertake piling risks assessments with the supply chain as required

Response Reference	Written Representation Issue	Applicants Response
	<ul style="list-style-type: none"> Implementation of an appropriate Materials Management Plan and Site Waste Management Plan to manage all materials during the construction works. 	<p>under REAC commitments WE10, WE11, WE12 and WE14 (REP1-030)</p> <ul style="list-style-type: none"> The Environmental Management Plan (2nd iteration) will include a 2nd iteration of the Pollution Prevention and Control Management Plan which will address pollution prevention. The Principal Contractor is acutely aware of the issues with silt management and will implement measures to minimise risk. A Soil Handling Management Plan (2nd iteration) will also incorporate controls to minimise silt and air quality issues. A Materials Management Plan (2nd iteration) will be produced to account for the Definition of Waste Code of Practice protocols, to allow for the sustainable reuse of site-won materials. A Site Waste Management Plan (2nd iteration) will detail what Duty of Care measures that will be implemented to manage contained (skips etc) and loose (stockpiles) waste to minimise the impact on the environment.
67.49	<p>Finally, also during the actual future operation of the Scheme there will likely be new sources of contamination introduced such as tyre and vehicle debris, spillages and leaks, road de-icing or indeed chemicals from road traffic accidents, with their possible impacts enhanced by newly installed drainage runs. It is therefore essential that the Scheme will be operated in accordance with the relevant regulations and best practice guidance in applying Best Available Techniques and pollution prevention to mitigate the risk of contamination to Controlled Waters. We understand a drainage strategy has already been developed to allow for management of volumes and quality of any surface runoff from the highway, including the construction of six attenuation basins along the M5, A4019 and the new link road, and we hope these will indeed be able to contain and lock in any gross pollution when needed, as well as filter out any more diffuse inputs. We also trust such features will be lined where needed and subject to ongoing inspection and maintenance during</p>	<p>The Applicant has responded to this point within Applicant's Response to Relevant Representations (REP1-043) at point 13.36. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The drainage strategy has been developed using the very latest guidance and policy to allow for management of volumes and quality of any surface runoff from the highway. Proposed Water quality treatment was developed following the Design Manual for Roads and Bridges (DMRB) LA 113 Standard (Road drainage and the water environment). National Highways Water Risk Assessment Tool (HEWRAT) was used to determine the level of water quality treatment required. Water quality mitigation measures include not only attenuation basins but also swales, vegetated ditches and a wetland. These measures are designed to remove pollutants based on performance with dissolved</p>

Response Reference	Written Representation Issue	Applicants Response												
	<p>their lifespan. The design of infiltration SuDS schemes and of their treatment stages can be considered but needs to be appropriate to the sensitivity of the location and subject to a relevant risk assessment, considering the types of pollutants likely to be discharged, design volumes and the dilution and attenuation properties of the aquifer.</p>	<p>metals and suspended solids and also provide spillage control. DMRB Standard CG 501 (Design of highway drainage systems) has been used to develop these appropriate treatment trains, ensuring removal of pollutants is adequate. The drainage strategy highlights the relevant maintenance required for attenuation/water quality treatment features and refers to typical maintenance schedules that have been provided from the CIRIA SuDS manual.</p> <p>Infiltration tests were undertaken in various locations throughout the site and results indicated that minimal infiltration would occur, therefore soakaway features were not included within the design. With the ground being relatively impermeable there was no proposal to line any features and the risk of groundwater contamination considered low. It was noted that no source protection zones are present within the site boundary.</p>												
Environmental Management Plan														
67.50	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="342 802 1171 826">10.1</th> </tr> </thead> <tbody> <tr> <td data-bbox="342 826 499 970">Chapters: Environment Management Plan (EMP) APP 7.3</td> <td data-bbox="499 826 611 970">Issue</td> <td data-bbox="611 826 1171 970">The EMP (1st iteration) sets out the framework for future iterations of the EMP. The preferred option doesn't go far enough to ensure all relevant detail for all requisite mitigation and enhancement.</td> </tr> <tr> <td data-bbox="342 970 499 1070">Section/pages/ table reference:</td> <td data-bbox="499 970 611 1070">Impact</td> <td data-bbox="611 970 1171 1070">Risk of unacceptable residual impacts from scheme.</td> </tr> <tr> <td></td> <td data-bbox="499 1070 611 1070">Solution</td> <td data-bbox="611 1070 1171 1070">Consult the Environment Agency on 2nd iteration of the EMP – known formerly as the construction EMP, in advance of construction starting.</td> </tr> </tbody> </table>	10.1			Chapters: Environment Management Plan (EMP) APP 7.3	Issue	The EMP (1st iteration) sets out the framework for future iterations of the EMP. The preferred option doesn't go far enough to ensure all relevant detail for all requisite mitigation and enhancement.	Section/pages/ table reference:	Impact	Risk of unacceptable residual impacts from scheme.		Solution	Consult the Environment Agency on 2nd iteration of the EMP – known formerly as the construction EMP, in advance of construction starting.	<p>The Applicant has responded to this point within the Applicant's Response to Relevant Representations (REP1-043) at point 13.37. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The Applicant notes the Environment Agency's comments and has been in discussions to date regarding the extent of consultation that the EA requires. The Applicant's position is that the Environment Agency is not required to be consultee for the EMP as a whole and is noted in the Register of Environmental Actions and Commitments (REAC) as consultee on those matters related to its functions. This is a standard approach which has been taken on the A417 Missing Link DCO 2022, M25 Junction 10 DCO 2022 and the M3 Junction 9 DCO 2024.</p>
10.1														
Chapters: Environment Management Plan (EMP) APP 7.3	Issue	The EMP (1st iteration) sets out the framework for future iterations of the EMP. The preferred option doesn't go far enough to ensure all relevant detail for all requisite mitigation and enhancement.												
Section/pages/ table reference:	Impact	Risk of unacceptable residual impacts from scheme.												
	Solution	Consult the Environment Agency on 2nd iteration of the EMP – known formerly as the construction EMP, in advance of construction starting.												

Response Reference

Written Representation Issue

Applicants Response

67.51

<i>10.2 Environmental Management Plan - Annex B.7: Pollution Prevention and Control Management Plan</i>		
B.7.2.11	Issue	This section misses several key potential sources of pollution that may arise due to the scheme. This includes surface water run-off from areas of exposed soils or stockpiles, construction compounds and storage areas for chemicals and fuels.
	Impact	If these potential sources are not considered within this plan, it reduced the plans effectiveness at reducing the risk

Section B7.2.11 of Annex B7 (AS-037) identifies existing pollution sources which could be present within the baseline environment which could be exposed during construction (e.g. made ground, existing pollutants such as herbicides and pesticides etc.). Therefore, the Applicant believes it would not be appropriate to include the items listed in this issue within this part of Annex B7 (which addresses existing pollution sources which could be present within the baseline environment) as the items listed are new sources of pollution resulting from construction activities.

Section B7.2.1.14 does not give an exhaustive list of all sources of pollution. Although pollution sources which are not near to watercourse is not explicitly stated within this section, the REAC commitment WE1 states that *'The management plans to be developed as part of the EMP will address good site practice and the preparation of robust method statements (e.g., Guidance for Pollution Prevention (GPP)). An assessment of impacts from pollution during construction should align with CIRIA C648 which outlines potential impacts and mitigation measures.'*

This guidance sets out all measures required to effectively manage pollution during construction to all receptors.

These mitigation measures will be secured through the EMP (2nd iteration) which will be produced by the Principal Contractor; Completion, approval, and implementation of which, is secured by DCO Schedule 2, Requirement 3(1) and 3(3) which states the County Planning Authority will have the opportunity to review and approve the EMP (2nd iteration) in consultation with the relevant planning authority and the strategic highway authority.

Although Section B.7.2.17 does not explicitly identify runoff from exposed soils as a source of pollution, the same principles apply as stated above which is that such assessment will be incorporated due to it being a necessary element of good site practice under the GPP. Completion, approval, and implementation of the EMP (2nd iteration), is

Response Reference

Written Representation Issue

Applicants Response

		of pollution from them.
	Solution	These sources should be included in this section.
B.7.2.1.14	Issue	This section does not acknowledge that pollution of surface water can occur if polluting substances are used even if they are away from a watercourse if a pathway is available.
	Impact	Pollution from construction sites can occur from sources away from surface watercourses, with the pollution migrating via pathways such as drains or overland. Failure to acknowledge this within this plan reduces its effectiveness at preventing pollution.
	Solution	Polluting sources that are not near to watercourses should be acknowledged within this document. They should be considered within the context of the source-pathway-receptor model.
B.7.2.17	Issue	There is no appreciation within this section that runoff can become contaminated if it encounters an area of exposed soils.
	Impact	Surface water contaminated with sediment is one of the most common causes of pollution from construction sites. If this is not identified, then it reduces the plan's effectiveness at preventing pollution.
	Solution	Contamination from areas of exposed soils should be added to this section.
B.7.2.22	Issue	This section references an Environment Agency Regulatory Position Statement (RPS) called "Managing concrete wash water on construction sites: good practice and temporary discharges to ground or to surface waters". This RPS is no longer valid and should not be referenced.
	Impact	Following an RPS that is no longer valid risks non-compliance with current legislation. This could result in environmental harm and/or enforcement action.
	Solution	References to this RPS should be removed from this document, and any others within the DCO submission. The Applicant may wish to check the website below for information on currently active RPS's. The Applicant may wish to consider RPS 235 or RPS 261 in the context of section B.7.2.22. Website: Environmental permits: regulatory position statements - GOV.UK (www.gov.uk)

secured by DCO Schedule 2, Requirement 3(1) and 3(3) which states the County Planning Authority will have the opportunity to review and approve the EMP (2nd iteration).

It is noted that the Environment Agency Regulatory Position Statement referenced in Section B.7.2.22 is no longer valid and that RPS 235 would be a more appropriate reference to use. The REAC commitment G1 states that *'No part of the authorised development is to commence until an EMP (2nd iteration), substantially in accordance with the EMP (1st iteration), for that part has been submitted to and approved by the county planning authority, following consultation with the relevant planning authority and strategic highway authority to the extent that it relates to matters relevant to its functions.*

As a result, this item will be updated with the most up to date and appropriate guidance information when updated by the principal contractor with agreement from the county planning authority, as part of the 2nd iteration.

Response Reference	Written Representation Issue	Applicants Response
67.52	<p>The EMP lacks details on how the Applicant will maintain oversight of the environmental performance of the principal contractor and subcontractors. Pollution incidents can occur when there is insufficient oversight of contractors and their adherence to environment management procedures. We recommend the 2nd iteration EMP includes details on how oversight will be achieved, including how the project team will be notified of environmental incidents, how often they will monitor and review the performance of the contractors, and how they will manage contracts to ensure that corrective action can be taken in the event of non-compliance with the EMP.</p>	<p>The information on monitoring and reporting is set out in the 1st iteration Environmental Management Plan (AS-025) of which the Pollution Prevention and Control Plan (AS-037) is an annex.</p> <p>Section 2 of the 1st iteration Environmental Management Plan (AS-025) confirms that the Applicant shall be responsible for overseeing the management of the Scheme, and will delegate some roles and responsibilities to specialist consultants to supervise, monitor or check the PC's method statements, including sensitive activities where required. Further details will be provided as part of the 2nd iteration Environmental Management Plan.</p> <p>Requirements for inspection and reporting are described in Section 6 of the 1st iteration Environmental Management Plan (AS-025).</p> <p>Information on the notification of pollution incidents is provided in paras B.7.2.30 and B.7.2.31 of the 1st iteration Pollution Prevention and Control Management Plan (AS-037).</p>
67.53	<p>Annex B of the EMP lists further plans that will be developed along with the 2nd iteration of the EMP. Although monitoring is mentioned elsewhere in the EMP, there is no reference to an environmental monitoring plan within Annex B. Having a dedicated monitoring plan may allow a clearer monitoring strategy, allowing better environmental performance reviews and swifter, more effective, corrective action to be taken if an issue is identified.</p>	<p>Details of the monitoring that will be undertaken is set out in Section 6 of the 1st iteration EMP (AS-025). As Annex B (AS-037) is part of this document, then the monitoring described also applies to the activities in the Pollution Prevention and Control Management Plan (AS-037).</p> <p>The Pollution Prevention and Control Management Plan (AS-037) describes the inspections that will be undertaken.</p> <p>The monitoring plan through which these inspections are undertaken will be included as part of the 2nd iteration of the Pollution Prevention and Control Management Plan.</p>
67.54	<p>Section D.5.1 states that watercourses will be checked during periods of high rainfall for any potential discharges of sediment-laden run-off. We welcome this proposal, however it may be worth formalising this requirement within the 2nd iteration to make it clear what the trigger level will be for additional checks/monitoring. This will reduce the risk that the</p>	<p>Monitoring watercourses for silt runoff is recognised as a best practice activity which is that such assessment will be incorporated due to it being a necessary element of good site practice under the <i>GPP</i>. Monitoring for this will be included as part of the 2nd iteration of the Pollution Prevention and Control Management Plan.</p>

Response Reference	Written Representation Issue	Applicants Response															
	checks are not carried out, which in turn reduces the risk that potential pollution events go unobserved.																
67.55	A list of current available best practice and guidance which will be followed by contractors during the construction phase should be included.	An outline list is presented in the 1 st iteration of the EMP Annex B7 (AS-037). The 2 nd iteration of the EMP Annex B7 will be produced by the contractor prior to construction and will include this list, as required. The 2 nd iteration EMP will be submitted to the County Authority for approval in consultation with the relevant planning authority and strategic highway authority to the extent that it relates to matters relevant to its functions.															
River Basin Management Plan																	
67.56	<table border="1"> <tr> <td colspan="3" data-bbox="342 663 1160 687">11.1</td> </tr> <tr> <td data-bbox="342 695 510 879">Chapters: Environmental Statement Appendix 8.2A WFD Surface Water Impact Assessment - APP 6.15</td> <td data-bbox="521 695 611 879">Issue</td> <td data-bbox="622 695 1160 879">Programmes of measures needed to achieve the environmental objectives in the river basin district is not given due consideration.</td> </tr> <tr> <td data-bbox="342 887 510 959"></td> <td data-bbox="521 887 611 959"></td> <td data-bbox="622 887 1160 959"></td> </tr> <tr> <td data-bbox="342 967 510 1110">Section/pages/ table reference:</td> <td data-bbox="521 967 611 1110">Impact</td> <td data-bbox="622 967 1160 1110">The scheme could restrict the options for future plans and projects to achieve good ecological status in the Severn Estuary. Risk of unacceptable residual impacts from scheme.</td> </tr> <tr> <td data-bbox="342 1110 510 1311"></td> <td data-bbox="521 1110 611 1311">Solution</td> <td data-bbox="622 1110 1160 1311">Consider programmes of measures for Severn Estuary River Basin Management Plan within WFD Assessment.</td> </tr> </table>	11.1			Chapters: Environmental Statement Appendix 8.2A WFD Surface Water Impact Assessment - APP 6.15	Issue	Programmes of measures needed to achieve the environmental objectives in the river basin district is not given due consideration.				Section/pages/ table reference:	Impact	The scheme could restrict the options for future plans and projects to achieve good ecological status in the Severn Estuary. Risk of unacceptable residual impacts from scheme.		Solution	Consider programmes of measures for Severn Estuary River Basin Management Plan within WFD Assessment.	<p>The Applicant has responded to this point the Applicant Response to Relevant Representations (REP1-043) at point 13.38. For ease, the Applicant's response is repeated below with amendments made to reflect Examination reference library.</p> <p>The WFD assessment [APP-108] was completed based on the most up-to-date information available. At the time of reporting, this was the Cycle 2 WFD data, which included Mitigation Measures for HMWB (as provided by the Environment Agency), measures outlined in the River Severn Cycle 2 River Basin Management Plan (RBMP) and the Cycle 2 Measures not linked to 2021 outcomes (<i>source: Environment Agency, 2020. WFD Cycle 2 mitigation measures assessment classification. Available at: WFD Cycle 2 mitigation measures assessment classification - data.gov.uk [Accessed 20 Aug. 2020]</i>).</p> <p>As the Cycle 2 RBMP and the Cycle 2 Measures not linked to 2021 outcomes did not specifically identify measures associated with those water bodies scoped into the WFD assessment, they were not considered further.</p> <p>Impacts to water bodies (associated with Test A and Test B) beyond the Severn – conf R Avon to conf Upper Parting water body were not considered due to the impacts of the Scheme being relatively localised</p>
11.1																	
Chapters: Environmental Statement Appendix 8.2A WFD Surface Water Impact Assessment - APP 6.15	Issue	Programmes of measures needed to achieve the environmental objectives in the river basin district is not given due consideration.															
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	Solution	Consider programmes of measures for Severn Estuary River Basin Management Plan within WFD Assessment.															

Response Reference	Written Representation Issue	Applicants Response
		<p>and therefore not expected to propagate to the next downstream water body (approximately 11 km downstream).</p> <p>This was based on several factors, including:</p> <ul style="list-style-type: none"> • No new barriers to fish movement introduced as a result of the Scheme; • All tests passed for routine runoff assessment of the HEWRAT; • and the chance of spillage was low which is acceptable under the DMRB LA113. <p>As a result, only the water bodies scoped into the assessment were reviewed for the potential impacts to measures.</p>
Further Representations		
67.57	<p>In summary, we can confirm that we have no objections to the principle of the proposed development, as submitted. The issues outlined above are all capable of resolution and we look forward to receiving additional information to resolve our outstanding concerns. We will also continue to engage with the Applicant and review the Statement of Common Ground (SoCG).</p>	Noted.
67.58	<p>We reserve the right to add or amend these representations, including requests for DCO requirements and protective provisions should further information be forthcoming during the examination on issues within our remit.</p>	Noted.

REP1-071 - Historic England

Response Reference	Written Representation Issue	Applicants Response
Introduction		
71.1	<p>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').</p>	Noted.
71.2	<p>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).</p>	Noted.
71.3	<p>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.</p>	<p>The NN NPS (December 2014) provides the primary basis for decision-making for the Scheme.</p> <p>As stated by government guidance, 'The 2024 NN NPS has effect for any applications for development consent accepted for examination after the designation of the revised NNNPS'. As the application was submitted in December 2023, before the adoption of the 2024 NN NPS, this is not the primary guidance to assessment of this scheme against NN NPS, this remains NN NPS 2014.</p>

Response Reference	Written Representation Issue	Applicants Response
71.4	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.	The Applicant can confirm that an updated version of its SoCG with Historic England (HE) was submitted at Deadline 1 (REP1-038) and that it will continue to liaise with HE through the SoCG process.
71.5	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. Role of the Historic Buildings and Monuments Commission for England (HMBCE)	Noted.
71.6	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”.	Noted.
71.7	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.	Noted.
71.8	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	Noted.

Response Reference	Written Representation Issue	Applicants Response
	the Department for Levelling Up Homes and Communities, with its responsibilities for land-use planning matters.	
71.9	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.	Noted.
71.10	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.	Noted.
Written Representation		
71.11	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.	Noted.

Response Reference	Written Representation Issue	Applicants Response
71.12	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.	Noted.
71.13	<p>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:</p> <ol style="list-style-type: none"> 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). 	The Applicant notes this comment, please see below for detailed responses.
71.14	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.	The Applicant notes HE’s comment regarding terminology in Requirement 9 and is currently engaging with HE to obtain its agreement on an appropriate form of wording.
71.15	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	The Applicant has updated the dDCO at Deadline 1 (REP1-004) to include Historic England as consultee within Requirement 9.

Response Reference	Written Representation Issue	Applicants Response
71.16	<p>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.</p>	<p>The Applicant will continue to engage with Historic England over the precise operation of article 38 to ensure that its role and purpose is clear. The Applicant’s position is that article 38 does not lead to a conflict between it and burial licences pursuant to Burial Act 1857.</p> <p>From a starting principle, section 120(5) Planning Act 2008 permits a DCO to apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order. The purpose of article 38 is to set up a process in substitution for section 25 Burial Act 1857. Therefore, the DCO doesn’t contradict the 1857 Act but replaces it. Much of this procedure set out in the dDCO has been taken from the Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950 which governs the process for CPOs in respect of consecrated ground. The 1950 Regulations therefore have been taken “into” the DCO much like the 1857 Act. It is quite normal for this to occur in DCOs, with this article being proposed in the Model Provisions. This was the initial example of a DCO set out by Parliament. Many DCOs have since incorporated. More widely, for local / major project legislation – there is a long history of incorporating a process for dealing with buried remains, which simplifies the legal code we have currently. This is reflected in Guidance for Best Practise for the Treatment of Human Remains Excavated from Christian Bural Grounds in England (Second End, 2017, Advisory Panel on the Archaeology of Burials in England) (APABE ToHREfCBG FINAL WEB.pdf (archaeologyuk.org)), see page 12, paragraph 85.</p> <p>Article 38 also reflects up to date practice and guidance and clarifies notification procedure against modern standards compared to how the 1950 Regulations are drafted. For example Guidance notes that for remains under 100 years old, an exhumation licence is granted on a case by case basis but practice is to grant licences provided consent has been obtained from next of kin and the burial ground manager (if</p>

Response Reference	Written Representation Issue	Applicants Response
		relevant) and there are no known objections and for remains over 100 years old, the consent of the next of kin is usually dispensed with.
71.17	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.	Noted.
71.18	HE will also be available to answer any questions that the EXA has regarding the Historic Environment.	Noted.
71.19	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.	Noted.

REP1-072 - Neil Hadley

Response Reference	Written Representation Issue	Applicants Response
72.1	<p>Access into my part of the Strategic Allocation GR364928 has not yet been considered in detail. In part 6 & 7 of my Representation dated 19th March I highlighted the problem of access. In my Pre-examination Statement listed 29th May I again highlighted the issues of access & egress, I actually spoke to raise the issue. In negotiations with me, GCC have not even considered a central right turning lane on the Old Gloucester Road (OGR) and the suggestion of a roundabout instead of a signalled junction has never been articulated as to why a signal junction is preferable. I therefore feel these issues should be openly discussed along with traffic data and the proposed new speed limit. In questioning, the applicants have already admitted there is a degree of subjectivity surrounding the signal junction and therefore I feel a roundabout that keeps traffic moving more freely should be openly discussed.</p>	<p>As stated in response 28.11 of the Applicant's Response to Relevant Representations [REP1-043] the Applicant's approach with other potential future developments that do not enjoy planning status is to provide equivalent access arrangements to ensure no detriment to the current use of land (Of particular relevant here being Work No. 6c on page 16 of the Works Plans).</p> <p>Furthermore, at response 28.13 of REP1-043 the Applicant established that the Scheme provides a single junction access into the A7 Site allocation, in accordance with the Cheltenham Borough Council and Tewkesbury Borough Council Golden Valley Development Supplementary Planning Document: A Garden Community Development and home of Cyber Central UK (July 2020). This access includes links to the shared use path network as part of the pedestrian and cycling provision proposed for the Scheme. The Applicant considers that this is an appropriate level of access and provision to unlock the Golden Valley site and to facilitate its development. Any further links or provision within the allocated site itself are outside the scope of this Scheme.</p> <p>With regard to the design development of the signalised junction response 28.8 of REP1-043 the Applicant outlined that a roundabout was considered during the conceptual and route identification stages of the Scheme, as was a roundabout at the northern end of the link road. However, traffic modelling undertaken in the preliminary design stage identified significant increases in forecast flows and an amendment to a signalised junction design was required to avoid significant queuing at the junction.</p> <p>A signalised crossroads junction was considered at the Link Road/B4634 junction to provide better active travel crossing facilities and for consistency with the A4019 junction.</p>

Response Reference	Written Representation Issue	Applicants Response
72.2	<p>Drainage of the West Cheltenham Strategic Allocation may be approved via planning applications by the Lead Local Flood Authority, but factors such as pollution from the Haydon Sewage Treatment Works, land and building run-off need to be considered in conjunction with climate change extremes when the flows meet the pipes under the OGR. Overflow from the sewage treatment plant needs to be able to cope with extreme rainfall that also originates from various parts of Cheltenham. Calculations for the water flows and the required under road pipes need to be openly talked through to check that there is going to be no water backing up and flooding both on my adjoining land and OGR.</p>	<p>The design and associated impacts of the West Cheltenham Strategic Allocation are not a matter for this Scheme but a consideration of any planning applications associated with the development of the Strategic Allocation Site.</p> <p>This Scheme has assessed the impacts of the flood risk to and from the Scheme at the southern end of the Link Road, including the new junction spur to the proposed West Cheltenham Development Area, and the changes to the B4634. The assessment of these impacts are presented in a technical note (AS-049).</p> <p>The assessment undertaken concluded that the Scheme with the mitigation described (replacing the existing 850 mm × 400 mm box culvert under the B4634 with 3nr 2100 mm × 800 mm box culverts) will be appropriate in terms of all applicable surface water flood risks and effects being acceptable. This is on the basis that:</p> <ul style="list-style-type: none"> - The hydraulic modelling indicates only minor, or no, adverse, impact on peak flood levels downstream of the Old Gloucester Road in conveying any displaced water, which will not cause any significant disbenefit (in fact a small reduction in flood level is predicted upstream of the B4634), and in fact reduces the duration of flooding; and - The wider M5 J10 Improvement Works includes additional volume within its compensatory storage wetland near the motorway junction to provide an overall increase in flood storage in the catchment.
72.3	<p>Compulsory Acquisition is going to have a land-take of about half an acre of my field. No justification has been given for requiring this strip of road frontage. Signal junctions can be installed on very small areas of land, therefore GCC need to explain what is the purpose and public good in requiring my road frontage and creating the entrance to the neighbouring site. Normally developers design their own entrances for submission in their own application. Development of my site will require access to</p>	<p>As stated in response 28.13 of the Applicant's Response to Relevant Representations (REP1-043) the Scheme provides a single junction access into the A7 Site allocation, in accordance with the Cheltenham Borough Council and Tewkesbury Borough Council Golden Valley Development Supplementary Planning Document: A Garden Community Development and home of Cyber Central UK (July 2020). This access includes links to the shared use path network as part of</p>

Response Reference	Written Representation Issue	Applicants Response
	<p>footpaths, cycle ways & green travel plans that may be located in/on/or around the OGR therefore accessibility to these connections around the adjoining adopted site entrance will be important to the development of my site. GCC plan for my field GR364928 (DF3 Layout) illustrates the land-take & drainage pipes under the OGR.</p>	<p>the pedestrian and cycling provision proposed for the Scheme. The Applicant considers that this is an appropriate level of access and provision to enable the connection of the Golden Valley site with the wider network and to facilitate its development. Any further links or provision within the allocated site itself are outside the scope of this Scheme.</p> <p>To future proof the scheme and minimise construction impacts, the Applicant is providing the stub arm into A7 Site allocation as it has been allocated for planning and an outline planning application has been submitted to the LPA.</p> <p>The Applicant notes Mr Hadley's requirements to develop his site but as set out in response 28.11 of the Applicant's Response to Relevant Representations (REP1-043) the Applicant's approach with other potential future developments that do not enjoy planning status is to provide equivalent access arrangements to ensure no detriment to the current use of land (Of particular relevant here being Work No. 6c on page 16 of the Works Plans).</p>

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