

M5 Junction 10 Improvements Scheme

**Applicant Response to Oral Submissions made at
ISH1 and ISH2**

TR010063 – APP 9.41

Regulation 5 (2) (q)

Planning Act 2008

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

Volume 9
July 2024

**Infrastructure Planning
Planning Act 2008**

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

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

**Applicant Response to Oral Submissions
made at ISH1 and ISH2**

Regulation Number:	Regulation 5 (2) (a)
Planning Inspectorate Scheme Reference	TR010063
Application Document Reference	TR010063/APP/9.41
Author:	M5 Junction 10 Improvements Scheme Project Team

Version	Date	Status of Version
Rev 0	July 2024	Deadline 2

1. Introduction

- 1.1.1. The Development Consent Order (DCO) application for the M5 junction 10 scheme was submitted on 19 December 2023 and accepted for examination on 16 January 2024.
- 1.1.2. The purpose of this document is to set out Gloucestershire County Council's combined response to the Oral Submissions made at Issue Specific Hearing 1 (ISH1) and Issue Specific Hearing 2 (ISH2) raised by those Interested Parties associated with the Strategic Allocations and the Safeguarded land (REP1-052 and REP1-063).
- 1.1.3. Please note, the Applicant has only responded to matters it considers necessary.

**Response
reference:**

Representation Issue

Applicants Response

REP1-052 Gowling WLG (UK) LLP on behalf of Bloor Homes Limited and Persimmon Homes Limited

52.1

The Applicant in its oral submissions stated it adopted a "nil detriment" objective for its transport modelling analysis. However, in considering individual sites and applications for development, the correct test to be applied is whether an impact can be classified as severe [NPPF Paragraph 115]. There is no policy requirement for development to have a nil detriment on highway capacity nor is there a policy requirement to prioritise the needs of car drivers without consideration of mode shift.

The Applicant's comments on "nil-detriment" need to be taken in context. In discussing the term "nil-detriment" at ISH1, the Applicant sought to clarify that it was not in the objectives of the Scheme to provide a betterment to the wider road network outwith the Scheme's red line boundary but that equally the Scheme has the objective of not producing a detriment, or in other words an adverse impact, on the wider road network. The term "nil-detriment" can therefore be given the term "equivalence" or "neutrality".

In any event, the core principle of "nil-detriment" does not have a relevance to the NPPF tests that a development might need to satisfy when pursuing planning permission. Bloor Homes Ltd and Persimmon Homes Ltd in pursuing the argument that the principle of "nil-detriment" is a higher burden of test compared to that in the NPPF are conflating the purpose of the Applicant's statement. Bloor Homes Ltd and Persimmon Homes Ltd may wish to criticise the Applicant for seeking to have a "nil-detriment" approach. But the "nil-detriment" approach is not a "nil-detriment" of Bloor Homes Ltd and Persimmon Homes Ltd impact but instead is a "nil-detriment" of the Applicant's Scheme.

The test set out at paragraph 115 of the NPPF states: "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe" .

The Applicant understands that the relevant planning applications promoted by Bloor Homes Ltd and Persimmon Homes Ltd would, without the Scheme, begin to cause an "unacceptable impact on highway safety" or have a "severe" cumulative impact on the road network.

Response reference:	Representation Issue	Applicants Response
		<p>It is for this purpose that the Scheme has been promoted by the Applicant. To alleviate this “unacceptable impact”. The JCS establishes the need for and the principle of the Scheme, which is included in the JCS Transport Strategy. It has been designed such that it meets its stated objectives in compliance with JCS policy, including to unlock potential developments on both the JCS allocated sites and the north-west Cheltenham safeguarded land. The allocated Housing Infrastructure Funding (HIF) for the Scheme is justified on this basis. Therefore, the Scheme has been designed to mitigate the most severe adverse impacts, caused cumulatively, that would otherwise be caused by the traffic forecast to be generated by these potential developments. This is confirmed by the traffic modelling undertaken for the HIF Outline Business Case (OBC) for the Scheme reported in the HIF OBC Traffic Forecasting Report (Appendix C to the Applicant Written Submission of Oral Case for Issue Specific Hearing 2 - REP1-046). Section 4 of this report defines criteria for three levels of severity of impact on the operational performance of the road network, with Level 3 being the most severe. M5 Junction 10 is identified in the HIF OBC Traffic Forecasting Report as a junction that will be subject to the most severe adverse impact (Level 3) on its operational performance due to the traffic growth forecast to be generated by the JCS dependent developments. Consequently, the Scheme addresses an identified forecast severe impact on the operational performance of the road network so the dependent developments could be in compliance with NPPF Paragraph 115.</p>
	Item 4 – Alternatives	
52.2	<p>The Applicant seeks development consent for a scheme which it cannot afford to deliver within its funding envelope. It is the position of the Interested Parties that alternatives should be considered that can be delivered within the Applicant’s funding envelope, including:</p>	<p>As outlined in the Applicant’s Response to Relevant Representations RR-005, RR-006, RR-007 and RR-034 [REP1-048] The Applicant notes the matters raised regarding the developer contributions and the overall funding of the Scheme. Given the recent closure of the Junction 10 specific engagement with developers, highways and planning</p>

Response reference:	Representation Issue	Applicants Response
	<p>Infrastructure to deliver only development of the land that is allocated in the JCS;</p> <p>Reducing the Scheme to only infrastructure which requires development consent with the balance of the infrastructure being delivered by developers as part of their own development scheme (for example, such as the A4019 works or the link road).</p>	<p>authorities on developer contributions and the need to consider the feedback received, which is ongoing, it is felt that it would be premature to provide a response on these matters at this time. It is proposed that further engagement with the relevant developers is undertaken in the coming weeks in order to further develop the contributions methodology with the aim being that an agreement can be reached on a more up to date position.</p> <p>Notwithstanding the above, in REP1-048, the Applicant also establishes that whilst the Scheme design can demonstrate the ability to absorb a greater capacity the design relates to the unlocking of Strategic Allocations A4 and A7 and the options appraisals associated with their facilitation.</p> <p>Moreover, the creation of an all movements junction at M5 J10 will result in induced traffic onto the A4019 in both directions i.e. from the junction into Cheltenham and from the Cheltenham to the SRN. The need for widening of the A4019 is intrinsically linked to the all movements junction as the improvements that are required are over and above those proposed by the developers for Strategic Allocation A4 in order to accommodate the increased throughput of traffic in both directions along the A4019.</p> <p>When considering the West Cheltenham Link Road it is evident that it cannot be developed without the M5 J10 junction improvements and that both the Scheme objectives and the policy objectives outlined in the IDP, LTP and SPD cannot be met without the provision of both the link road and the all movements junction.</p> <p>Scheme Objectives 1, 2 and 3 all require improvements to the road network in both North West and West Cheltenham and to this end the Scheme cannot be considered as its component parts but as the Scheme as a whole. The Scheme seeks to unlock all dependent development at A4 and A7, as well as any other development sites facilitated by the design capacity, and the cumulative traffic generated as a result of that development cannot be brought forward in its entirety</p>

Response reference:	Representation Issue	Applicants Response
		without the Scheme in situ, given the relatively lower total deadweight within the existing network capacity.

Response reference:	Representation Issue	Applicants Response
REP1-063 - Savills on behalf of St Modwen and Midlands Land Portfolio Limited		
	Introduction	
63.1	At ISH1, Mr Matthews on behalf of SM&MLPL questioned how the distribution of deadweight capacity had been allocated amongst four locations shown in Table 6 of the following document, 7.5 Transport Assessment – Appendix L – Traffic Forecasting Report [document reference APP-142].	<p>The distribution of deadweight development capacity allocated to each of the JCS allocated and safeguarded sites was determined by the traffic modelling and assessment undertaken by the Applicant for the Housing Infrastructure Fund (HIF) Outline Business Case (OBC), which is reported in the HIF Traffic Forecasting Report (Appendix C of the Applicant Written Submission of Oral Case for Issue Specific Hearing 1 (ISH1) – REP1-046).</p> <p>A summary of the methodology adopted is provided under Action Point 11 of the Applicant Written Submission of Oral Case for ISH1 – REP1-046).</p>
63.2	In dialogue with Gloucestershire County Council officers immediately following ISH1, Mr Matthews was informed that the mechanism has been reviewed in order to address these concerns. SM&MLPL welcome this in principle and look forward to further engagement with the Applicant on this matter. At this stage SM&MLPL reserve the right to comment further once they have had the opportunity to review and comment upon the proposed alternative mechanism.	The Applicant continues to engage with all relevant developers in order to seek a level of agreement regarding the funding mechanism for developer contributions associated with the Scheme.
63.3	Secondly, 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	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 the SM&MLPL

Response reference:	Representation Issue	Applicants Response
	submitted by two of the three developers / 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.	this increased capacity has been further reflected by the planning applications that have been submitted.

AtkinsRéalis

5th Floor, Block 5
Shire Hall
Bearland
Gloucester
GL1 2TH

Tel: +44 (0) 8000 514 514