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# M5 JUNCTION 10 IMPROVEMENTS SCHEME

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Deadline 3 submission on behalf of St. Modwen  
and Midlands Land Portfolio Limited, Land at West  
Cheltenham

## SM&MLPL, Land at West Cheltenham – DEADLINE 3 SUBMISSION

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| Quality management |  |                |            |
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| Prepared by:       | Nick Matthews / Erin Banks                       |                |            |
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| Report ref:        | SM&MLPL West Cheltenham<br>DEADLINE 3 SUBMISSION | Date of issue: | 30.07.2024 |

## 1 Introduction

- 1.1. 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 3 (30 July 2024). Savills act as planning adviser to SM&MLPL and are authorised to submit these representations on their behalf.
- 1.2. 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.
- 1.3. In March 2024, Savills submitted a Relevant Representation on behalf of SM&MLPL prior to commencement of the examination process [document reference RR-034].
- 1.4. SM&MLPL participated in ISH1 (represented by Mr Nick Matthews of Savills) and following the discussions during this hearing, SM&MLPL submitted additional representations to Deadline 1 [document references REP1-063 and REP1-064] and further representations to Deadline 2 [document reference REP2-016].
- 1.5. This Written Representation responds directly to the relevant questions posed by the Examining Authority (ExA) on 9 July 2024 (ExQ1).
- 1.6. At this stage SM&MLPL have no further comments to make on the other submissions at deadline 2.

## 2 Response to ExQ1

- 2.1. SM&MLPL wish to make the following comments in response to the questions posed by the ExA.

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| <b><u>Question 5.0.10</u></b>   | SM&MLPL submitted an outline planning application for the following description of development in October 2022:  |
| <b>Can each developer advise on when they hope to commence development and over what time period you estimate your build to be.</b> | <i>“Outline planning application for residential development comprising a mixture of market and affordable housing (Use Class C3), which could include retirement/extra care accommodation (Use Class C2/C3), a flexible mixed use area with a community hub (including potentially Use Classes E, F1 and F2), a primary school and children’s nursery to include use of sports pitches to provide public recreation space, site clearance and preparation, green infrastructure, walking and cycling routes, formal and</i> |

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|         | <p><i>informal public open space, sports pitch provision, drainage, and other associated works and infrastructure, including utilities and highways works. All matters reserved except partially for access.”</i></p> <p>During the post-submission period, changes have been made to the application proposals and a full resubmission including further environmental information under Regulation 25 of the EIA Regulations is to be submitted in August/September 2024. Once consultation on the resubmission has been completed it is hoped that the applications will be determined at both the Tewkesbury and Cheltenham Borough Council meetings at the end of 2024.</p> <p>Following the resolution to grant at the end of 2024, SM&amp;MLPL anticipate the following milestones through to a start on site:</p> <ul style="list-style-type: none"> <li>• Parallel site preparation and infrastructure application approved: Q4 2024</li> <li>• Outline planning permission granted: Q1 2025</li> <li>• Site preparation and infrastructure works commence: Q1 2025</li> <li>• First Phase Reserved Matters approved: Q3 2025</li> <li>• Technical approvals and conditions discharged: Q4 2025</li> <li>• First completions on site: Q2 2026</li> </ul> <p>Consistent with an estimated delivery trajectory supplied to the local planning authorities, we estimate that the new homes will be delivered broadly in line with the following timetable:</p> <table border="1" data-bbox="635 1592 1018 1944"> <thead> <tr> <th>Year</th> <th>Completions</th> </tr> </thead> <tbody> <tr> <td>2026/27</td> <td>45</td> </tr> <tr> <td>2027/28</td> <td>90</td> </tr> <tr> <td>2028/29</td> <td>90</td> </tr> <tr> <td>2029/30</td> <td>135</td> </tr> <tr> <td>2030/31</td> <td>135</td> </tr> </tbody> </table> | Year | Completions | 2026/27 | 45 | 2027/28 | 90 | 2028/29 | 90 | 2029/30 | 135 | 2030/31 | 135 |
|---------|---|------|-------------|---------|----|---------|----|---------|----|---------|-----|---------|-----|
| Year    | Completions   |      |             |         |    |         |    |         |    |         |     |         |     |
| 2026/27 | 45  |      |             |         |    |         |    |         |    |         |     |         |     |
| 2027/28 | 90  |      |             |         |    |         |    |         |    |         |     |         |     |
| 2028/29 | 90  |      |             |         |    |         |    |         |    |         |     |         |     |
| 2029/30 | 135   |      |             |         |    |         |    |         |    |         |     |         |     |
| 2030/31 | 135   |      |             |         |    |         |    |         |    |         |     |         |     |

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|  | <p>2031/32      135</p> <p>2032/33      165</p> <p>2033/34      180</p> <p>2034/35      125</p> <p>This delivery trajectory is predicated upon a number of assumptions relating to the grant of the relevant permissions and the phased delivery of the development.</p>  |
| <p><b><u>Question 5.0.12</u></b></p> <p><b>Para 3.2.5 of the Funding Statement [APP-036] GCC is to confirm their approach to the application of JCS policy INF7 following the Cabinet meeting in December 2023.</b></p> <p><b>(i) What is latest position?</b></p> <p><b>(ii) Is this position / approach agreed with the other Councils?</b></p> <p><b>(iii) Is this approach agreed with the Interested Parties who are the prospective developers of the allocated sites?</b></p> | <p>An initial proposal for a funding mechanism was published by GCC and a consultation response provided by Savills on behalf of SM&amp;MLPL dated 20 October 2023. Through this response, SM&amp;MLPL objected to the narrow focus of the proposed mechanism which only sought contributions from the nearby Strategic Allocations within the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS).</p> <p>In response, GCC have advised that they have developed a revised funding mechanism for comment which addresses the concerns raised. This has not been published to date and, in answer to part (iii) of the question, it is not yet possible to confirm whether the revised mechanism is deemed to be acceptable. SM&amp;MLPL is happy to engage with GCC on this point when GCC is ready to share the revised funding mechanism. This dialogue could be kept alive via an appropriately worded Requirement.</p> |
| <p><b><u>Question 5.0.13</u></b></p> <p><b>i) What is the latest position in respect of the GCC Local Developers Guide?</b></p> <p><b>ii) What Status do you consider it currently to have?</b></p>  | <p>It is our view that the GCC Local Developers Guide is a high-level explanation of the role of GCC in delivering infrastructure which supports development. It does not have the status of a Development Plan Document or Supplementary Planning Document and does not therefore have any statutory role in the determination of planning applications; rather, it is a point in time explanation of how GCC intend to respond to planning applications. In that respect, it should inform the approach that GCC takes to infrastructure in its response on individual planning applications; responses which themselves must comply with the statutory framework of the CIL Regulations.</p>   |

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| <p><b><u>Question 5.0.16</u></b></p> <p><b>(i) The funding for the scheme has a significant reliance on Section 106 funding associated with (future) development. Please can you explain the specific mechanism for how this will be secured at the appropriate time to support the proposed construction (including programme) of the scheme.</b></p> | <p>The working assumption of SM&amp;MLPL to date has been that a financial contribution would be calculated per dwelling and that, <u>subject to viability</u>, a proportionate contribution would be paid on commencement of each phase of development that secures reserved matters approval. There are six phases of development within the SM&amp;MLPL outline planning application which will come forward as separate reserved matters applications for residential / mixed-use development over the course of the 6-8 years after outline permission has been granted. As explained above, the actual amount of the financial contribution and the mechanism to determine it have not yet been agreed.</p> <p>Any funding mechanism would need to have regard to the viability of development and the balance between contributions to other infrastructure required to mitigate the impacts of development such as off-site active travel improvements, bus service enhancements and a range of social / community infrastructure. SM&amp;MLPL have started discussions with the two local planning authorities – Cheltenham and Tewkesbury Borough Councils – regarding the viability of development and the funding of infrastructure, however that process has not yet concluded and there is not therefore clarity on the level of contribution, if any, that could theoretically be made towards strategic highways improvements.</p> <p>Our response to Part (iii) of this question explains how we consider the DCO could respond to the current uncertainty over the availability of funding.</p> |
| <p><b>(ii) Can the house builders also respond to this question but also give an indication of the timing of the likely commencement of development and the prospective build programmes as far as you can at the present time.</b></p>  | <p>The timescales for development including the likely start on site have been provided in response to Question 5.0.10.</p>   |

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| <p><b>(iii) There would appear to be a tension between the NPPF requirements on developers to provide mitigation to address infrastructure needs associated with their development, and how the current proposal responds to those needs? Can each party explain their position on this matter and provide an explanation of how they consider this might be resolved.</b></p> | <p>Insofar as part (iii) of the question is concerned, we stated in a letter of 20 October 2023 to the Applicant that we consider there is indeed a tension between the Framework, the draft funding mechanism prepared by GCC and the statutory scheme for securing Section 106 obligations<sup>1</sup>. The latter limits the level of funding which can legitimately be secured through Section 106 to that which is both necessary <u>and</u> proportionate in scale and kind to the impact of the proposed development. Limiting the financial contributions to those from the strategic allocations is disproportionate and not therefore compliant with the tests.</p> <p>Notwithstanding this ‘in principle’ concern, based on the representations and Deadline 2 submissions by the various parties, it would appear to be very unlikely that the circa £81m funding gap could be closed through Section 106 contributions from the Strategic Allocations alone. As a consequence, further discussions have taken place between the Applicants, Cheltenham and Tewkesbury Borough Council(s), and the developers of West Cheltenham and North West Cheltenham allocations.</p> <p>Following on from that it is our recommendation to the Applicant that:</p> <ul style="list-style-type: none"><li>• the HIF funding available is dedicated towards the delivery of the J10 improvement work (excluding Associated Development) in the first instance;</li><li>• where viable, Section 106 contributions from the strategic allocations and other developments which impact upon the transport movements at J10 and J11 contribute towards the funding of the Associated Development. A condition of the Contribution is that there would be no Grampian Condition restricting delivery of the development; and</li><li>• that the Associated Development is delivered once the funding has been accumulated. Interim improvement works may be delivered before the Associated Development comes on stream. The interim improvements (if required) would be funded</li></ul> |
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<sup>1</sup> Regulation 122 of the Community Infrastructure Regulations 2012 (as amended)

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|  | <p>through the financial contributions from developers and delivered by GCC.</p> <p>On that basis, a letter supporting the principle of a financial contribution has been provided to the Applicant. This contribution is subject to the following:</p> <ol style="list-style-type: none"> <li>1. Planning permission is granted for the proposed development;</li> <li>2. GCC adopt a revised methodology that includes other development sites that cumulatively would be dependent on provision of the M5 Junction 10 package;</li> <li>3. Once the contract is let for the construction of the M5 J10 Improvements Scheme; the removal of any highway Grampian conditions in relation to our development concerning delivery of those M5 J10 Improvement Scheme works. For clarity, this relates to the J10 works only and not the Associated Development;</li> <li>4. Other sites contribute in line with the methodology described above to address the funding gap; and</li> <li>5. Consideration of any site-specific viability issues in determining contributions which may include consideration of how Community Infrastructure Levy may be used to also address the funding gap.</li> </ol> |
| <p><b><u>Question 5.0.17</u></b></p> <p><b>In the Funding Statement [APP-036] paragraph 3.3.1 the Applicant indicates there is transport modelling that demonstrates relative benefit for each of the sites.</b></p> <p><b>(i) Can the Applicant explain whether this an established and agreed approach as this would appear to contradict both the RRs from Persimmon and St</b></p> | <p>Whilst there is an agreement in principle, there is no agreement as yet regarding the details of the Funding Mechanism. For further details see our response to Questions 5.10.12 and 5.10.16.</p>  |



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| <p>Modwen, but also the Funding Statement which indicates the approach is still the subject of consultation and is yet to be agreed?</p> <p>(ii) Can each of the housebuilders clarify their position on this matter?</p> |  |
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## 3 Conclusion

- 3.1. In principle, SM&MLPL support the proposed works set out within the DCO application, however, these must be realistically achievable and deliverable. If the Associated Development, including the Link Road, cannot be funded immediately through a combination of the available HIF monies and proportionate (and viable) developer contributions through Section 106, then it is the view of SM&MLPL that the focus should be placed on the J10 works in the first instance with the Associated Development to follow when sufficient developer funding becomes available.