

**Principal Areas of Disagreement Summary Statement (PADSS) from National Highways Limited (“National Highways”)**

**IP ID: 20047703**

**Application by Gloucestershire County Council (“Applicant”) for an Order Granting Development Consent for the M5 Junction 10 Improvement Scheme (“Scheme”)**

**Planning Inspectorate Reference Number: TR010063**

Version Number: 2

Submitted at: Deadline 3 - 30 July 2024

Point of Concern Number	Principal Issue in Question	Summary of Party's Concern	What needs to change/be amended/be included to overcome the disagreement?	Likelihood of concern being addressed during the Examination
1.	Traffic evidence base	<p>At present National Highways is unable to support the Application on the basis of the traffic modelling information provided. The scheme is supported in principle but there needs to be a robust set of modelling that identifies the impact of the Application on the Strategic Road Network (SRN), - M5 J10, M5 J11 and A40 Elmbridge Court roundabout.</p> <p>The current concerns include, but are not limited to, the extent of the models, model validation, future year modelling, slip road design, network journey times, capacity modelling and resultant queueing, local road network impacts, local road/SRN interaction and development assumptions.</p>	<p>National Highways requires the modelling packages, Transport Assessment (TA), and associated drawings to be updated in accordance with the details set out in a series of meetings and Technical Notes that have been shared with the Applicant. Currently, the modelling is not considered sufficiently extensive enough or representative of the operation of the highway network to enable National Highways to make an informed decision regarding the impact of the construction of the proposed new junction.</p>	Medium
2.	Saturn modelling	<p>The SATURN modelling does not currently comply with the requirements of National Highways in a number of areas, with particular concerns regarding the software version used, model validation and calibration and the impact of other highway and transport schemes as well as the suitability of the model given the age of some of the data and the effects of Covid.</p>	<p>The model needs to be amended in accordance with the Technical Notes and ongoing discussions held between National Highways and the Applicant and their respective consultants.</p> <p>There are concerns relating to the age of the model data that should be reviewed against post-Covid data to ensure the base is suitably robust. The journey time validation is not as comprehensive as required, including along alternative routes to which traffic may be diverted. The calibration of traffic signals and queue length needs to be provided and updated as appropriate. The effects of construction traffic should also be taken into account.</p>	Medium
3.	Scheme design	<p>Details of the slip road design</p>	<p>National Highways requires clarification of the location of the farmland access track as referenced in 4.2.4 of the TA and clarification of how this is accessible from the SRN or otherwise.</p> <p>National Highways require that the Applicant provides a GG104 risk assessment in relation to the design of slip</p>	Medium

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			<p>roads and associated traffic modelling analysis specific to the slip roads to outline the proposals potential impact to road user and operational safety.</p> <p>National Highways require further information including traffic flows and modelling to understand if the weaving/merge/diverge provision proposed (as required by CD 122), offer sufficient capacity for the predicted increase in traffic levels.</p> <p>Without this information, National Highways is unable to determine that the scheme does not impact the safe and efficient operation of the SRN.</p>	
4.	PARAMICS modelling	<p>There are outstanding concerns regarding the suitability of the PARAMICS model in its current form to adequately model the impacts of the new junction on the wider SRN as well as the local road network in respect of its interaction with the SRN.</p> <p>National Highways have highlighted the limited extent of the PARAMICS model as a cause for concern and it should be extended to at least include M5 J11 and the local road network to and including the A40. It must be compatible with the Saturn model in respect of alternative route choices locally.</p>	<p>Extend the PARAMICS model as requested by National Highways, confirm it is compatible with the Saturn Model and provide updated modelling to National Highways for review.</p> <p>Confirmation is required regarding the number of seeded runs and variance in outputs from the various ones. Confirmation is also required that there are not significant levels of unreleased trips in the model that are unable to enter the network and consequently incorrectly identify the impact of the scheme.</p>	<b>Medium</b>
5.	Transport Assessment	<p>The TA is based on output from modelling which is not agreed and therefore the TA cannot be signed off insofar as it relates to the SRN. The TA also needs to demonstrate that the assessment is consistent with DfT Circular 01/2022 'Strategic road network and the delivery of sustainable development'.</p>	<p>The TA needs to be updated in respect of the road safety review with particular focus on serious and fatal collisions including those involving vulnerable road users on the local road network. It will also need updating in accordance with the revised modelling (as necessary).</p> <p>Where impacts are seen, adequate explanation will be required to demonstrate that these impacts are both realistic and acceptable, particularly where operating</p>	<b>Medium</b>

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			conditions worsen on the SRN. All information must be provided in a form suitable for review with appropriate size and scale plots from the models. Reporting on construction impacts including lane closures will also be required.	
6.	Reservoir	The area of flood storage to the south-east of the new Junction 10 and the implications of the Reservoirs Act 1975 has yet to be confirmed with the Applicant. There is concern in respect of how the requirements will be incorporated into the design solution, including but not limited to the ownership, operation and maintenance of any part of the SRN that will form part of the flood storage area.	National Highways is in discussions with the Applicant in respect of the proposed reservoir. The Applicant has shared a technical note with National Highways that provides an overview of the modelling, design, operation and maintenance of the reservoir and National Highways has provided comments in response. The Applicant has responded to the comments made by National Highways and National Highways are now reviewing the further information provided. The proposals by the Applicant are not currently acceptable to National Highways. Further information and discussions, including clarity in respect of agreements with Environment Agency are required with the Applicant in respect of the principle of the reservoir as well as the practical implications of operation, maintenance and ownership.	Low
7.	Land parcel 5/2n (Unused carriageway in situ)	Minimise land required for the project in the south-west quadrant of M5 J10. 'White' land is included in the designs and appears to show existing carriageway being left in-situ.	National Highways request that parcel 5/2n, which appears to leave the redundant length of the old northbound on slip road loop in situ, including carriageway and retained vegetation, with the maintenance track pushed to west of works, is redesigned so that the maintenance track is designed adjacent to scheme earthworks and that the redundant length of the slip and existing vegetation is removed/integrated into the scheme.  The land and works plans will require amendment.	High
8.	Protective Provisions	National Highways object to the current Protective Provisions in the draft Development Consent Order and believe they leave both National Highways and the SRN exposed to excessive risk.	National Highways standard protective provisions should be included on the face of the DCO.  Any departures from National Highways' standard protective provisions that are scheme specific and	Low

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		<p>The principle concern relates to funding security, to ensure delivery of the whole scheme, and the provision of a commuted sum for future maintenance of SRN assets arising from the scheme. The current protective provisions also raise other concerns for National Highways around control over detailed design and works to the SRN.</p>	<p>required are being discussed and could be included in a side agreement.</p>	
9.	Land	<p>Access to all current and proposed National Highways assets secured in the DCO.</p>	<p>National Highways require demonstration that all land rights necessary to access all (current and proposed) SRN assets affected by the scheme have been included in the Book of Reference. National Highways will continue to discuss land right access with the Applicant.</p> <p>National Highways require easements:</p> <ul style="list-style-type: none"> <li>• over the private land side of any fencing for future maintenance / replacement with a minimum of 5m width.</li> <li>• outfalls, ditches and/or buried pipelines that are part of the SRN for future maintenance/ replacement with a minimum of 5m widths each side of the apparatus.</li> <li>• any land locked plots for future maintenance with a minimum of 10m width.</li> <li>• any Culverts not deemed structures for future maintenance with a minimum of 10m width.</li> <li>• any structures for future maintenance with a minimum of 10m width.</li> <li>• For access and the rights for future maintenance in relation to all assets to be adopted by National Highways for operation and maintenance.</li> </ul>	<p style="text-align: center;"><b>High</b></p>

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10.	Land	Article 25- Retention, closure, re-routing of Public Rights of Way (not currently a DCO drafting concern)	National Highways requires a review of the interaction with National Highways' land and interests to confirm re-rerouting of Public Rights of Way in both the temporary and permanent case with the Applicant.  Discussions are ongoing with the Applicant.	High
11.	Land	The Applicant's proposed approach to land assembly.  National Highways undertook a sample check of the land plans forming the Application and has concerns regarding the acquisition of subsoil of the SRN, inclusion of National Highway's interests within the compulsory acquisition powers, as well as whether the land plans are generally correct to ensure that all land necessary to deliver the development is included.	National Highways is in discussion with the Applicant regarding approach to compulsory acquisition and concerns with the works and land plans.  National Highways requires that The Land Plans, Book of Reference, Statement of Reasons, Works Plans, General Arrangement plans and descriptions of works in Schedule 1 of the DCO are reviewed for consistency and accuracy and where errors or issues are identified, the relevant plan or document is substituted or updated.	High
12.	Land	Part 1 compensation claims for diminution of property values caused by physical factors arising from new works - liability to remain with Applicant.	National Highways requires confirmation that any Part 1 claims for compensation will remain the responsibility of the Applicant to settle and that the Applicant will retain all liability for compensation payments arising out of compulsory acquisition after the SRN assets are transferred to National Highways.	High
13.	Draft DCO	Body responsible for discharge of requirements	Discussions between National Highways, the County Planning Authority, Local Planning Authorities and the Applicant are ongoing to resolve this matter.  National Highways' position is that the Secretary of State for Transport is the appropriate discharge body.	High
14.	Draft DCO	Transfer of benefits in article 10. Works packages which impact the SRN can be transferred to named statutory undertakers without Secretary of State consent. Whilst the	As set out in RR-06 (National Highways' Relevant Representation) some works packages in article 10 should be deleted from the scope of that article or any ancillary agreements with the Applicant need to contain a	Very High

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		<p>protections and requirements in the DCO will transfer to the incoming undertaker, any protections contained in ancillary agreements between National Highways and the Applicant will not.</p>	<p>provision to restrict a transfer of benefits until those agreements are assigned or novated to the incoming undertaker.</p> <p>The parties have agreed the principle that ancillary agreements will contain a requirement to assign or novate them simultaneously with any transfer of benefit, however until such ancillary agreements are concluded the matter remains outstanding.</p>	
15.	Draft DCO	Implications of implementing stated Limits of Deviation	<p>National Highways has raised concerns with the Applicant regarding limits of deviation and requires that the Applicant confirm that implications of implementing, for example a full 2m downward LoD in respect of National Highways assets and adjacent to them has been considered. National Highways requires further clarity regarding the assessment of horizontal LoD within the limits of the order.</p>	High
16.	Draft DCO/scheme design	<p>Article 13 - clarity over assets intended to be handed over to National Highways.</p> <p>Although works are to be completed to the reasonable satisfaction of National Highways where they relate to special or trunk roads, the DCO does not provide for the extent of off-carriageway works to be considered within this Article as forming part of special or trunk roads; nor does it determine who will be liable for highway assets which may be shared between the local and strategic road networks (e.g. drainage and lighting).</p>	<p>National Highways requires that any assets to be handed over to National Highways upon scheme completion are clearly subject to the agreement of National Highways, to ensure that the asset is acceptable to National Highways, including but not limited to pavements, fencing, landscaping, drainage, lighting and noise mitigation.</p> <p>National Highways requires clarification of the proposed Operational Boundary for National Highways assets.</p> <p>National Highways requires that this is addressed by the Applicant to ensure that there are no inconsistencies or gaps between the draft Development Consent Order and National Highways' Protective Provisions and/or a side agreement.</p> <p>Discussions are ongoing between National Highways and the Applicant to agree a mechanism for resolving these issues as part of detailed design process.</p>	High

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17.	Draft DCO	<p>Article 14 – classification of roads upon Applicant's certification.</p> <p>Notwithstanding the requirement in article 13 for completion of works to the reasonable satisfaction of the strategic highway authority, if the Applicant issues a certificate under article 14 before National Highways is satisfied, National Highways becomes the highway authority and acquires all of the statutory duties over the identified lengths of road by operation of law.</p>	National Highways requires assurance that certification under article 14 does not take place until National Highways has signed off on completion of the relevant stretch of SRN. This can be contained in protective provisions or a side agreement.	<b>High</b>
18.	Draft DCO	<p>Article 17 - exclusion of motorways and slip roads from the article.</p> <p>The Article allows the Applicant to utilise existing accesses to the SRN without consultation with National Highways, who coordinate activities on the SRN on behalf of a number of statutory undertakers, as well as itself and cannot allow unmonitored interference with any aspect of the SRN.</p>	<p>National Highways requires that the wording in relation to access roads inside the order limits excludes motorways and slip roads or requires prior consultation and agreement from National Highways.</p> <p>National Highways understands that the Applicant will define and clarify this in the next update to the draft DCO.</p>	<b>High</b>
19.	Draft DCO	<p>Article 2 - clarity in respect to 'pre-construction mitigation works'</p> <p>National Highways is concerned that 'pre-construction environmental mitigation works' referred to within the definition of 'commence' in Article 2 are not defined but could impact on the SRN. Due to them being pre-commencement the protective provisions will not apply to the works.</p>	National Highways require that this is defined and clarified in the draft Development Consent Order by the Applicant or otherwise agreed with National Highways in a side agreement.	<b>High</b>
20.				<b>Resolved - Agreed matter moved to SoCG</b>
21.	Draft DCO	Preparation and discharge of the requirement to prepare a 3 <sup>rd</sup> iteration EMP.	National Highways requires that Requirement 3(4) confirms consultation with National Highways (including but not limited to handover processes, plans, inspection	<b>High</b>



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		<p>The EMP3 will contain operational and maintenance requirements that fall to National Highways responsibility but National Highways is not currently a consultee.</p>	<p>regimes and validation processes) on the proposed Environmental Management Plan 3<sup>rd</sup> Iteration in the draft Development Consent Order. National Highways understands that the Applicant will include appropriate wording in the next update to the draft DCO.</p> <p>Deadline 3 Update – Applicant is in agreement to National Highways request (SoCG Deadline 1). Amendment to be made to next iteration of draft DCO</p>	
22.	Draft DCO	<p>Use of deemed consent rather than deemed refusal where National Highways consent is required.</p> <p>National Highways is concerned if it does not manage to reply within the specified time limits, unmanaged interference with the SRN could occur. This carries significant safety issues.</p>	<p>National Highways requires that the deemed consent provisions in the draft DCO (for example, article 11, 15, 18 and 20) are altered to either (a) a deemed refusal or (b) deeming provisions are removed altogether.</p>	High
23.	Draft DCO	<p>Article 30 – airspace and subsoil of streets Consent from National Highways for any works above or below the SRN is required for the same reasons it is required at surface level.</p>	<p>National Highways requires any airspace or subsoil over or under the SRN not to be used without consent from National Highways. The inclusion of National Highways' protective provisions on the face of the DCO overcomes this.</p>	High
24.	Draft DCO	<p>Schedule 2, Requirement 6 – responsibility for replacement planting is unclear.</p>	<p>National Highways requires the wording in relation to the liability of replacing trees and shrubs within 5 years of planting is clarified to make this the responsibility of the Applicant, and that this is included in the aftercare package (management and maintenance) between the Applicant and the Principal Contractor.</p> <p>National Highways also requires that the aftercare package agreement between the Applicant and the Principal Contractor is provided for National Highways consultation to ensure that the agreement is in</p>	High

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			<p>accordance with National Highways operational requirements, e.g. the use of Species Rich Grasses and the application of MPI-85.</p> <p>National Highways understands that the Applicant will include appropriate wording in the next update to the draft DCO.</p>	
25.	Draft DCO	<p>Article 11 – street works.</p> <p>Consent required from National Highways prior to being exercised over the SRN.</p>	National Highways require that this Article is drafted to ensure that the power in relation to street works cannot be exercised over the SRN without consent from National Highways.	High
26.	Statement of Reasons	<p>Statement of Reasons. National Highway request further details of the breakdown of work numbers as they do not follow the structure of Schedule 1 of the DCO and therefore are inconsistent between the two documents.</p> <p>National Highways has undertaken a review of work no.s 1a, 1b, 1c and 1d and found there to be discrepancies between Schedule 1 of the DCO and the Statement of Reasons in all four instances. In each case the Statement of Reasons introduced additional reasons for needing the land beyond that included in Schedule 1.</p>	The exercise from National Highways only considered the first four work numbers. A comprehensive review is requested to be undertaken by the Applicant and amends made to either Schedule 1 or the Statement of Reasons, as appropriate.	High
27.	Register of Environmental Actions and Commitments	Potential omissions in respect to Register of Environmental Actions and Commitments.	<p>National Highways seek to secure the following noting that the Applicant has supported this request in the SoCG:</p> <ul style="list-style-type: none"> <li>• <b>Resolved.</b>the EMP and REAC recognise national biosecurity issues, not just those identified within the curtilage of the scheme.</li> <li>• That a definition is provided in respect to the term “enhancement works” to which Ref B13 refers.</li> </ul>	High

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28.	Register of Environmental Actions and Commitments	Habitat management approach.  There is disparity between assumed time for environmental assets containing trees to meet moderate condition. 'Individual trees' is stated as assumed 27yrs, whilst 'Linear belts of shrubs and trees' is stated as assumed 5yrs.	National Highways requests more consistency in timeframes, as trees will only have just become established in 5 years and generally do not achieve their design function for at least 15 years.  National Highways require further information regarding the replacement planting of 10 years, i.e. is this an EPS licence requirement stipulated by Natural England and is this applicable to all planting or only specific mitigation locations.	High
29.				Resolved – Agreed matter moved to SoCG
30.	Environmental Statement	Approach to Biodiversity Net Gain in respect to the Strategic Road Network	National Highways require clarity from the Applicant in respect of any National Highways maintenance obligations on the SRN including how these align to the REAC.	Medium
31.				Resolved – Agreed matter moved to SoCG
32.	Design	Omission of a viewport to show stopping up on sheet 5 of 16 of Street, Right of Way and Access Plans	National Highways requests that an insert to the drawings is added to show the stopping up of the old N/B on slip road under the junction overbridge.	High
33.	Road Safety Audit	Uncertainty over the status of completed Road Safety Audits	National Highways requires clarification from the Applicant that a fully GG119 compliant Road Safety Audit (RSA) has been completed for the DCO design. Furthermore National Highways require confirmation of what stage RSA has been completed. The response letter implies this is a Stage 1/2 but the report is just that of a Stage 1. National Highways would expect the RSA Stage 2 to be completed after detailed design which National Highways would require consultation for the SRN elements.  More specifically this needs to also include a location plan based on the scheme marked up and referenced to	High

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			understand the impact on the SRN - see clause 5.3 of GG119.	
34.	Funding	<p style="text-align: center;">Funding certainty</p> <p>National Highways is concerned that the funding for the scheme is insufficient and that the identified funding gap will not be adequately met by developer contributions. National Highways has concerns about (a) the policy position required to secure the contributions and (b) even where secured, the significant reliance on developments coming forward within the timescales when funding is required</p> <p>National Highways has not seen the Homes England grant funding offer and therefore cannot rely on it to provide any assurance regarding secured funding.</p> <p>National Highways also has concerns about how any cost overrun or supply chain increases will be funded and whether the contingency built in and estimate of the programme costs are realistic.</p>	<p>Further to Issue Specific Hearing 1 and 2, National Highways support the need for an issue specific hearing in respect of the project funding.</p> <p>National Highways is seeking to agree protective provisions with the Applicant to mitigate its concerns.</p>	<b>Medium</b>