

Your Reference

Our Reference  
2745292/TAW1



FAO The Examining Authority  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Gowling WLG (UK) LLP  
Two Snowhill  
Birmingham  
B4 6WR

DX 312501 Birmingham 86

30 July 2024

Dear Sirs

**Reference TR010063 - Application by Gloucestershire County Council (the Applicant) for an Order Granting Development Consent for the M5 Junction 10 Highway Improvements Scheme (the Scheme)**

**Deadline 3 Submissions by Bloor Homes Limited and Persimmon Homes Limited (Interested Party Reference Numbers 20047701 and 20047702) (together the Interested Parties)**

On behalf of the Interested Parties, we make the following submissions:

**Responses to ExA's First Written Questions**

Please see attached table containing the responses of the Interested Parties.

**Comments on submissions for Deadline 2**

In respect of the Applicant's Response to Oral Submissions made at ISH1 and ISH2 (APP 9.41), the Interested Parties have the following comments:

Response Reference 52.1 – Traffic Impacts of Elms Park

The position of the Interested Parties is that the effects of the development at North West Cheltenham (Elms Park) can be sufficiently mitigated on the national and local highway network through provision of local highway mitigation, avoiding any conflict with NPPF paragraph 115. This is evidenced through the planning application submissions to the Local Planning Authorities.

Response Reference 52.2 – Alternatives

The Applicant's comments that it would be premature to provide a full response pending further discussions are noted.

**Attendance at ISH3, CAH1 and ASI w/c 12 August 2024**

We confirm that the Interested Parties intend to attend the ISH3 and CAH1 on 13 – 14 August 2024. They will be represented by Counsel, Killian Garvey, and Joe Wooldridge of PJA.

Joe Wooldridge of PJA will attend the ASI on behalf of the Interested Parties at Point of Interest 4.

If you require anything further, please let us know.

Yours faithfully

T +44 (0)370 903 1000  
F +44 (0)370 904 1099  
gowlingwlg.com

Gowling WLG (UK) LLP is a limited liability partnership registered in England and Wales under registration number OC304378 and is authorised and regulated by the Solicitors Regulation Authority. A list of members may be inspected at 4 More London Riverside, London, SE1 2AU, its registered office.

Gowling WLG (UK) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at [www.gowlingwlg.com/legal](http://www.gowlingwlg.com/legal).

*Gowling WLG*

**📞 Enquiries please contact: Toni Weston**

**[REDACTED]**  
[REDACTED]@uk.gowlingwlg.com  
Gowling WLG (UK) LLP

**REFERENCE TR010063 - APPLICATION BY GLOUCESTERSHIRE COUNTY COUNCIL (THE APPLICANT) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE M5 JUNCTION 10 HIGHWAY IMPROVEMENTS SCHEME (THE SCHEME)**

**DEADLINE 3 SUBMISSIONS BY BLOOR HOMES LIMITED AND PERSIMMON HOMES LIMITED (INTERESTED PARTY REFERENCE NUMBERS 20047701 AND 20047702) (TOGETHER THE INTERESTED PARTIES)**

**INTERESTED PARTIES RESPONSES TO EXA'S FIRST WRITTEN QUESTIONS**

NO.	TO	QUESTION	RESPONSE
1.22	GCC, Persimmon, Bloor and NH	<p>The NPS NN sets out a strategic need case for the improvement of the strategic road network, while the policy allocations in the local plans aim to ensure the “the Local Planning Authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal” before them.</p> <p>The TA [APP-138] has tested three scenarios, P, S and R</p> <p>(i) Has an assessment been undertaken which considers the improvements to the M5 J10 without the dependant development and without the Associated Development?</p> <p>(ii) If this has not been undertaken what evidence is before the Examination that the strategic need for the Associated Development is established?</p> <p>(iii) Please can the Applicant identify the strategic need for the local road elements of the proposal having regard to the requirements of the NPS NN. The response should also set out the Applicant’s position with respect to the</p>	<p>The Interested Parties are not aware that this or any other scenarios, including those with alternative mitigation schemes, have been undertaken.</p>

		<p>appropriateness of the DCO proposals to mitigate impacts associated with specific land allocations and planning applications?</p> <p>(iv) Please can the Applicant provide examples of DCOs for similar highway schemes whereby they implicitly provide local road infrastructure to facilitate specific land allocations / planning applications?</p>	
5.0.10	Bloor, Persimmon, St Modwen	<p>Funding</p> <p>Can each developer advise on when they hope to commence development and over what time period you estimate your build to be.</p>	<p>Subject to a timely planning permission being issued, requiring agreement with the Applicant and completion of a Section 106 legal agreement which the Applicant is party to, then commencement of development could commence in FY 2027-2028. Thereafter the residential build out (non-residential elements being subject to market demand) would take circa 20 years.</p>
5.0.12	<p>GCC, Joint Councils</p> <p>Bloor, Persimmon, St Modwen (ii) only</p>	<p>Funding</p> <p>(i) What is the latest position in respect of the GCC Local Developers Guide?</p> <p>(ii) What Status do you consider it currently to have?</p>	<p>(ii) The Local Development Guide was presented and adopted at Gloucestershire County Council's Cabinet meeting on 24 March 2021. It was subject to a <u>targeted</u> (not full) public consultation. Consequently, whilst it is <u>not</u> a Development Plan Document <u>nor</u> a Supplementary Planning Document, it is a material consideration of limited weight in the determination of planning applications.</p>
5.0.16	GCC, Bloor, Persimmon, St Modwen	<p>Funding</p> <p>(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</p>	<p>(i) This has not yet been made clear by the Applicant.</p> <p>(ii) As per the response to Question 5.0.10 above, Elms Park could commence in FY 2027-28 and will take circa 20 years to build out. The timescales for development of the Safeguarded Land are uncertain.</p>

		<p>will be secured at the appropriate time to support the proposed construction (including programme) of the scheme.</p> <p>(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.</p> <p>(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.</p>	<p>(iii)</p> <p><u>Elms Park:</u></p> <p>The NPPF requirement is that the residual cumulative impact of development must not be 'severe'. The planning application documents demonstrate this outcome could be achieved through local highway mitigation. The Scheme provides much greater highway works than is reasonably required for just 'Elms Park' considered on a cumulative basis based upon the descriptions within the NPPF.</p> <p>The highway evidence that supported the Joint Core Strategy (JCS) demonstrated that the planned for growth, including Elms Park, could be accommodated without the need for works at Junction 10. It was only the late inclusion of the West of Cheltenham allocation that triggered the need for works at Junction 10 and a new link road from the West of Cheltenham (WoC) to the junction. Hence the need for Junction 10 works is to mitigate the cumulative impacts of all the planned for growth in the JCS, triggered by the inclusion of WoC and exacerbated by the post-JCS increase in its quantum through the Golden Valley SPD. It is therefore irrational to suggest that Elms Park is the principal cause of the need for Junction 10.</p> <p>This position is inherently recognised in the need for Junction 10 to be funded by central government (through HIF) – the local planning authorities having declined to include the Scheme in their CIL charging schedules, despite the Applicant requesting that they do so.</p>
--	--	---	--

			<p>If there is now a shortfall in the funding that should be remedied either through CIL collected across the JCS, or through additional central government funding, or through CIL applied through the emerging Strategic Local Plan. It should not be for a selected number of individual strategic allocations and unallocated safeguarded land to fill a shortfall funding gap for a scheme that will benefit all development in the JCS and unlock future growth in the emerging Strategic and Local Plan.</p> <p><u>Safeguarded Land:</u></p> <p>The NPPF requires highway impacts to be assessed through a planning application. An application has not been submitted and this is not planned in the short term due to the planning policy status of the land.</p>
5.0.17	GCC, Bloor, Persimmon, St Modwen	<p>Funding</p> <p>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.</p> <p>(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 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>	<p>(ii) As per the response to Question 5.10.16 above, the Interested Parties fundamentally disagree with the entire premise of the Shortfall Funding and have made this clear in their representations to the various targeted consultations on the funding proposals.</p> <p>The Interested Parties disagree with the approach taken and modelling methodology as the methodology attributes a much greater benefit and therefore cost to Elms Park and the Safeguarded Land compared to WoC, noting that it was only the inclusion of WoC in the JCS at a late stage that triggered the need for these works at Junction 10. Several detailed representations have been made on this matter.</p>

6.0.4	GCC, Persimmon, Bloor, Joint Councils (i)  Crown Estate (ii) only	<p>Article 7 - Planning Permission</p> <p>(i) In light of the overlap between the scheme boundary and the planning application for Elms Park referred to in the joint Bloor Homes and Persimmon Homes RR [RR-006] (16/0200/OUT) (para 1.6) would there be any conflict with the DCO as drafted?</p> <p>In responding, please explain with particular reference to timing as well as the physical differences proposed for access to the Elm Park Development.</p> <p>(ii) The Crown Estate [RR-038] refers to a planning permission at the Gallagher Retail Park, please provide details of this scheme explaining what land is included, and what conflict if any would arise between the DCO scheme and the planning permission.</p>	<p>(i) The Elms Park planning application is defined by flexible parameter plans accompanied by more detailed access drawings. Therefore, although the Scheme conflicts with the detailed access drawings, it does not conflict with the parameter plans – which is agreed with the local planning authorities and local highway authorities. In the event that Elms Park and the Scheme are permitted and implemented, it is envisaged that the Scheme works on Tewkesbury Road, including the main accesses to Elms Park, would supersede the Elms Park access drawings – this is envisaged in the draft conditions for Elms Park which are under currently discussion.</p> <p>The one area of conflict would be the access to the Transport Hub ('Park &amp; Ride') which is not optimally located in the Scheme, but this is a relatively minor adjustment that it is considered the Applicant could readily accommodate in their detailed designs.</p> <p>The Scheme would reduce the developable area within Elms Park along its frontage with Tewkesbury Road with a high-level assessment indicating a loss of 100 - 150 residential units.</p>
-------	---	--	---