

Highways Commissioning
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12th August 2024

M5 Junction 10 Improvements Scheme

Dear Mr Maund,

Notification of Applicant's Intention to Submit Request for Proposed Changes to the DCO Application

This letter sets out:

- a. Gloucestershire County Council's (**the Applicant**) intention to submit revised documentation to change parts of the M5 Junction 10 scheme ("**the Scheme**") currently before examination; and
- b. the suggested procedure for the change to be considered by the Examining Authority.

It forms the Applicant's change notification as required by paragraph 3.2 of Advice Note 16, version 3 (March 2023).

The proposed changes are described in section 10 of this letter.

The proposed timetable for consultation and formal submission are set out in sections 6 to 8.

1 BACKGROUND TO APPLICATION

- 1.1 As part of the Applicant's reflection on the matters discussed at the first set of issue specific hearings, as well as continuing engagement with interested parties, it is considered that some changes to the Scheme before the examination can be made in order to deal with some issues identified which would enable the delivery of a more sustainable, efficient and cost-effective scheme.
- 1.2 Whilst the Applicant is content that it has sought powers for a scheme that is implementable and can be built, it is possible to make some refinements that deal with some of the points that other parties have raised.
- 1.3 The proposals outlined below do not represent changes to the Scheme so significant that in effect a new scheme is being applied for, either when considered individually or collectively. They reflect both that the Applicant is listening to what is being said by affected and interested parties, and also reflect outcomes of design evolution, as a result of early contractor involvement progressing in parallel with the application.
- 1.4 The Applicant would like to hold the necessary Statutory Consultations from 2 October 2024 to allow time for these to be completed and changes considered within the remaining examination period.
- 1.5 The Applicant believes that none of the changes, with the exception of change 8, are essential for the Scheme to be consented but are improvements to the submitted

Highways

Scheme, developed following representations from relevant parties and reflecting outcomes from further design. If the changes are not accepted by the Examining Authority, then the Applicant would continue to pursue the Scheme as originally submitted.

- 1.6 It should be further noted that no additional changes are anticipated.
- 1.7 In preparing this letter and its proposals for changes, the Applicant has had full regard to the relevant guidance issued by the then Secretary of State for Communities and Local Government in 2015 and the Planning Inspectorate's Advice Note 16.

2 STATEMENT REGARDING THE RATIONALE FOR THE PROPOSED CHANGES

- 2.1 This change notification has arisen from a variety of factors, but principally from refining the preliminary design and engagement with affected or interested parties. The changes reflect ongoing engagement as well as the identification of opportunities to further reduce the impacts and costs of the Scheme.
- 2.2 Each proposed change represents one or more of the following:
 - (a) Investigation of practical ways to reduce the concerns of affected parties and stakeholders;
 - (b) Reflecting on the additional knowledge from early contractor involvement;
 - (c) Improving buildability and construction worker safety; and
 - (d) Reducing environmental impacts.

3 MATERIALITY OR NON-MATERIALITY OF THE PROPOSED CHANGES

- 3.1 The Applicant submits that individually each of the changes would not be considered so material as to require extensive consultation but appreciates this is a matter of planning judgement for the Examining Authority.
- 3.2 Given the time available now in examination, it is felt appropriate to consult in any event so that the question of materiality is largely irrelevant.
- 3.3 In short, the position taken by the Applicant is that the consultation will take place and the results be provided to the Examining Authority so that, if the Examining Authority considers the changes are individually or collectively material, then it has the information it requires in any event.

4 ENVIRONMENTAL CONSIDERATIONS – STATEMENT REGARDING THE POTENTIAL FOR THE PROPOSED CHANGES TO GIVE RISE TO ANY NEW LIKELY SIGNIFICANT EFFECTS BEYOND THOSE REPORTED IN THE ENVIRONMENTAL STATEMENT

- 4.1 The Applicant considers that none of the proposed changes, either individually or cumulatively, would have the potential to give rise to any new likely significant effects beyond those reported in the environmental statement. In addition, some of these changes are indeed a betterment of the Scheme.
- 4.2 Despite this, the Applicant intends to publicise (in accordance with the spirit of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("EIA

Highways

Regulations") any further environmental information arising in connection with the proposed changes in parallel with the carrying out of its consultation. Any representations received in relation to that publicity would then be reported on.

5 CA REGULATIONS

- 5.1 The change the Applicant is proposing in respect of Change 8 (described below) alter the nature of the rights sought. Therefore, the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("CA Regulations") would be engaged.
- 5.2 The Applicant can confirm, however, that no land outside the current order limits is required for the proposed M5 Junction 10 Scheme changes.

6 ENGAGEMENT WITH KEY STAKEHOLDERS

- 6.1 The Applicant has engaged informally with certain statutory stakeholders.
- 6.2 Virtual meetings were held with the Joint Councils, Natural England, the Environment Agency and National Highways, week commencing 8 July 2024. The proposed design changes were presented in turn, with a summary of the technical information, an environmental assessment and sketches.

7 THE CONSULTATION PROCESS AND FORMAL SUBMISSION OF APPLICATION FOR CHANGE

- 7.1 The Applicant's proposed approach is summarised below, but the inspectorate's views are, of course, welcome.
- 7.2 Following the formal submission of Change Application, and guided by the Examining Authority's procedural decision, the proposed process is set out below which provides for consultation to be carried out simultaneously for EIA and CA Regulation purposes:
 - (a) Commencement of consultation period – this will commence with
 - (i) the publication of newspaper notices, and
 - (ii) notification provided to the inspectorate for publication on its website, as well as
 - (iii) direct communication with those parties identified above.
 - (b) This would be aimed to commence following receipt of the Examining Authority's procedural advice upon consideration of this notification letter on the need, scale and nature of consultation. The Applicant acknowledges the Examining Authority has 28 days to make a decision in respect of the formal Change Application. However, the Applicant would be grateful if such decision could be made in a shorter period (14 days from submission) in order to be able to accommodate any possible additional requests by the Examining Authority.

The Applicant expects to commence statutory consultations on or around 2 October 2024 and would run for a period not exceeding 30 days from the last local newspaper notice being published. This is based on first notice published in the local newspapers on 24 September 2024 (with one week lead time

Highways

required prior to issue to newspapers) and second notice published on 1 October 2024.

It is currently anticipated that the conclusion of the consultation period would be **11:59 pm on 1 November 2024**.

- (c) The Applicant anticipates needing approximately two weeks following the close of the consultation period to fully review and consider the submitted material and provide an updated Consultation Report.
- (d) Given the nature of the proposed changes and the material that will be available to the Examining Authority and/or relevant parties, it is hoped that, if the Examining Authority is minded to accept the changes, this would not significantly impact on the examination timetable. Questions can be raised by the Examining Authority if required, whilst none of the documentation required around Deadline 6 or Deadline 7 should be materially impacted by the proposed changes.

8 PUBLICITY

8.1 The Applicant proposes to comply with the publicity requirements of the EIA Regulations and CA Regulations regarding the proposed changes. This will entail:

- (a) Notices in local newspapers for two successive weeks and also a notice in the national press and London Gazette;
- (b) Notices affixed on site, close to the relevant locations and kept in place throughout the consultation period;
- (c) Proportionate neighbour notification.
- (d) Notices served on the following:
 - (i) Relevant Affected Persons that would receive notice under section 42(1)(d) of the Planning Act 2008;
 - (ii) Relevant interested parties (as defined in section 102 of the Planning Act 2008) relevant for the locations of the land affected by the proposed changes (where we have the relevant contact details);
 - (iii) Prescribed persons (section 42(1)(a) of the Planning Act 2008)); and
 - (iv) All relevant local authorities (section 42(1)(b)).

9 DOCUMENTATION

9.1 Consultation would principally comprise of a consultation brochure outlining the proposed changes. It is not envisaged that there will be consultation events held in person but a facility for web-based consultation events is likely to be provided.

9.2 The consultation brochure would be provided with the notice of the proposed changes application and served directly on the consultees outlined above. The brochure will describe the proposed changes.

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- 9.3 The consultation brochure and proposed changes application will be placed on the Applicant's scheme website and be available for the duration of the consultation period. Hard copies would be made available on request. It is not anticipated that hard copies will be placed on deposit. Electronic copies of the documents will be accessible via the examination website also.
- 9.4 Engagement meetings will be offered to the persons directly affected by changes to the proposals for land acquisition.
- 9.5 In the time available, it may not be possible for all relevant application documents to be updated immediately for the proposed changes to be fully reflected in them. The Applicant is currently concentrating on preparing a revised version of the general arrangement drawings, land plans, development consent order, explanatory memorandum and a schedule setting out the required changes to the statement of reasons and book of reference.
- 9.6 The Applicant would appreciate discussion with the inspectorate on the proposals outlined above and welcome comments as soon as possible to allow it to prepare fully for the proposed changes application.

10 THE PROPOSED CHANGES APPLICATION

- 10.1 In the proposed changes application, the Applicant will set out the application material listed below, by reference to Figure 3 of AN16, to assist the Examining Authority in making its decision on whether or not to accept the proposed changes for examination. It is intended the documentation will also provide clarity for parties engaged in the examination and more widely.
- 10.2 The Applicant will provide:
- (a) Clear descriptions of the proposed changes including updated plans and drawings to demonstrate any altered works and ancillary impacts.
 - (b) A statement, based on the consultation documentation, explaining the rationale for the changes by reference to Examination Guidance and any relevant submissions previously made in the examination.
 - (c) A full schedule of all application documents and plans to be amended, listing consequential revisions to each document (or a no change annotation where a document is unaffected by the proposals) together with the consideration of any impact on the proposed consents and licences that are required for the change to be made or for the scheme to be taken forward for the change decision.
 - (d) An updated land plan and book of reference, together with a statement of reasons, and clean and track changed versions, showing the changes required and confirmation that the CA Regulations are engaged.
 - (e) Provision of updated environmental information where required. The Applicant will have provided with its consultation documentation notes indicating the likely changes to the relevant parts of the environmental statement as a result of the proposed changes.

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- (f) A consultation brochure outlining the outcomes of the consultation and confirmation of who was consulted and who has responded. The document will in addition report on any procedural guidance or other relevant comments provided by the inspectorate and/or the Examining Authority.
- (g) An updated development consent order and explanatory memorandum will also be provided (in clean and tracked versions).
- (h) All relevant plans requiring updates as a result of the proposed changes will be provided.

10.3 In relation to plans, it is to be noted that the Applicant does not propose to change the outline order limits on any of the proposed plans, but, in relation to sheets where plans do require change, if land is to be excluded from the powers in the order (including powers of compulsory acquisition) then this will be identified on the relevant plan.

11 TIMESCALES FOR ACCOMMODATING THE PROPOSED CHANGES

- 11.1 The Applicant has indicated above its proposed timetable for changes and how these can be accommodated within the examination timeframe. Because of the pre-submission consultation processes and information that will be provided in advance of the actual application for the proposed change, it is anticipated that it will be possible for the Examining Authority to issue its decision fairly swiftly after receipt of the documentation. This will allow over one month of examination time for Rule 17 requests or other additional information required, and also allows for two hearing days to be utilised if required.
- 11.2 It is important to bear in mind that none of the changes proposed by the Applicant are considered to be controversial in nature and in some case are reacting to changes proposed or requested by the relevant parties. Of themselves they do not provide for any new issues being raised or additional land acquisition and it is hoped therefore that each of the proposed changes will be uncontroversial, even if it is considered the proposals are "material" in planning terms.
- 11.3 At this stage, therefore, the Applicant anticipates it will formally apply for the changes on 3 September 2024.

12 REASONS FOR CHANGE – GENERAL

- 12.1 A degree of limited change is contemplated by adopting a limits of deviation approach for the principal works and also through the drafting of requirement 11 in the current draft DCO. Despite this, it is felt that each of the changes proposed are sufficiently impacting on the submitted design documentation that they are best dealt with during the examination, rather than by way of a material or non-material change application post decision; or because they could be accommodated within the changes envisaged by the current DCO drafting as being accepted.
- 12.2 The currently applied for scheme is implementable but it is felt that the refinements proposed in the changes make the scheme better reflective of continuing stakeholder engagement and reflect what has been discussed in examination.

Highways

13 THE PROPOSED CHANGES

13.1 Following a period of design and constructability review and design development, design changes have been identified to improve the Scheme buildability, sustainability and opportunities have been identified to reduce costs. The changes the Applicant anticipates it will apply for are as follows:

Change 1 – Link road replacement of swales with filter drain

13.2 This change proposes to replace the three swales for surface water collection on the link road with two filter drains.

13.3 Filter drains provide a more efficient solution in terms of alignment design, earthworks and constructability. Filter drains would be narrower than swales allowing for reduction in the cross-section of the link road reducing the requirement for imported fill and reducing the footprint in the flood plain.

Change 2 – Link road replacement of box culverts with bridges

13.4 This change proposes to replace the two sets of pre-cast concrete flood culverts under the link road with two flood alleviation bridges.

13.5 The provision of bridges in lieu of culverts provides a number of benefits as outlined below:

- Piled foundations remove the requirement for ground improvement and subsoil treatment;
- Reduced working time and space requirements within the floodplain and the overland flow path;
- Eliminates the confined space hazard for inspection and maintenance personnel;
- Provides a larger opening, reducing the risk of blockages;
- Lower risk of differential settlement, improving rideability and reducing the risk of pavement and structural damage;
- Improved fauna movement due to larger openings and improved light penetration;
- Ability to provide seeding / vegetation and other natural features beneath the structure to encourage fauna movement and provide an improved environmental solution

Change 3 – Link road River Chelt bridge structural form

13.6 This change proposes to optimise the reprofiling of the River Chelt to run perpendicular with the link road, in order to replace the skewed crossing of the River Chelt Bridge with a square crossing.

13.7 Adopting this change would provide a simpler design and construction solution so reducing programme risk in the construction phase. In addition, square structures are generally considered to have an improved performance in the long term.

13.8 Additional river enhancements are proposed downstream of the crossing to locally improve riparian and fish habitat.

Highways

Change 4 – Link road vertical alignment

- 13.9 This change proposes to locally reduce the vertical alignment of the Link Road by more than the vertical limits of deviation of -1.0m as defined in the draft DCO.
- 13.10 The proposed change would reduce the volume of imported material required for the embankment, and the embankment footprint within the flood plain.

Change 5 – Relocation of NRTS Transmission Station

- 13.11 This change proposes to relocate the Uckington NRTS Transmission Station from its existing position in the northeast quadrant of the M5 junction 10, to a location 2.6km further south on the M5, within the highways boundary and DCO red line boundary.
- 13.12 This change eliminates the health and safety risks associated with the construction of the retaining wall in close proximity to the Transmission Station, and mitigates the risks associated with maintaining National Highways' data links during the construction period.
- 13.13 The proposed change would allow for the removal of the retaining walls for the north Piffs Elm bridge, on the north side of the east and west abutments. These would be replaced with embankments.

Change 6 – Flood storage area reconfiguration

- 13.14 This change proposes to reconfigure the proposed flood storage area south-east of the Piffs Elm Interchange, between the M5 corridor, the A4109 and the Link Road.
- 13.15 Under the current Scheme the A4019 is raised to join the new gyratory at the proposed M5 Junction 10 which severs the existing overland flow path. The Withybridge Underpass invert level is set above the design flood event so would not provide flood conveyance to mitigate the severed A4019 flow path, and the existing 750mm diameter pipes that pass under the A4019 would be stopped up.
- 13.16 The DCO design states that the M5 and A4019 road embankments would act as impoundment structures and the flood compensation area would need to be registered as a large raised reservoir under the Reservoir Act. This would place onerous responsibilities on maintaining parties, and been raised as an area of significant concern by National Highways.
- 13.17 The proposed change would –
- Provide two separate basins to store 23,500m³ and 61,000m³ entirely below the current ground level, with conveyance channels to pass flood water forward under the M5 and the A4019 road embankments.
 - Lower the Withybridge underpass invert level to convey flood water under the A4019.
 - Replace the existing 750mm pipes under A4019 with new culverts.
- 13.18 This would provide the benefit of minimising the maintenance responsibilities by removing the requirement to use either the M5 or the A4019 road embankments to impound the reservoir.

Highways

13.19 This change would not require an upgrade to the land rights sought in the DCO.

Change 7 – Infill of existing northbound on-slip loop

13.20 This change proposes to infill the existing M5 J10 northbound on-slip loop with site-won material which would not be suitable for re-use elsewhere, to provide improved screening of the gyratory.

13.21 The proposed change would provide a sustainable solution to managing site won materials arising from the works and create a new slope with enhanced planting opportunities.

Change 8 – Land rights

13.22 A change is proposed to the Land plans to align them with the extent of dormice hedgerow mitigation shown on the General Arrangement (GA) plan and Environmental Masterplan. This change is not a design change and relates to an upgrade in the rights sought from temporary possession to new rights which will enable the Applicant to undertake a more efficient maintenance of the hedgerows within 5/4c, 5/4c(i), 5/4d, 5/4d(ii), 5/4d(iii), 5/4d(iv) and 5/4d(v).

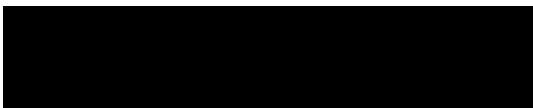
13.23 As a result of the above change, the Book of Reference, Statement of Reasons, Land Plans and draft DCO would need to be updated to add new plot numbers with "Land to be used Temporarily and rights to be acquired permanently" (Blue land) to add permanent rights to maintain the hedgerow mitigation post construction.

13.24 A change in land / rights being acquired from National Highways is being considered in order to address National Highways concerns. The affected plots are being discussed and finalised with National Highways.

14 CONCLUSIONS

I would be grateful if you could acknowledge safe receipt of this letter and for us to discuss next steps, as well as any thoughts the Examining Authority or the Inspectorate may have regarding the proposals outlined above. In the interim, the Applicant will continue to prepare the request for the proposed changes and anticipate that the consultation process will commence around Deadline 5 and proceed in accordance with the timetable outlined above.

Yours sincerely,



Chris Beattie
Highways and Infrastructure
Gloucestershire County Council