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OUR REFERENCE:
M5J10.JC.D4.CL

YOUR REFERENCE:
TR010063

Date: 3 September 2024

Dear Mr Maund,

Application by Gloucestershire County Council for an Order Granting Development Consent for the M5 Junction 10 Improvements Scheme: TR010063

Submission made by the Joint Councils pursuant to Deadline 4 (D4) of the Examination of the M5 Junction 10 Improvements Scheme

This letter is written on behalf of Gloucestershire County Council (GCC), including acting on behalf of GCC in its role as the Local Highway Authority, Cheltenham Borough Council (CBC) and Tewkesbury Borough Council (TBC), together the Joint Councils (20047710). The Joint Councils are the host authorities for the GCC Major Projects Team ('the Applicant') M5 Junction 10 Improvements Scheme Development Consent Order (DCO) ('the Scheme').

This letter provides a summary of the Joint Councils' D4 submissions of which further details can be found within the following documents:

- Joint Councils Written Submission of case put orally at the Hearings held the week commencing 12 August 2024 – document reference M5J10. D4HS; prepared by AtkinsRéalis on behalf of the Joint Councils, dated 3 September 2024
- Joint Councils Design Statement
- Joint Councils Planning Statement, including the Community Infrastructure Levy (CIL) Joint Committee Infrastructure List.

The Joint Councils have also reviewed the submissions made by the Applicant and other Interested Parties at D3. Where reviews of the D3 submissions do not warrant a separate document, these are captured within this letter for ease.

Joint Councils Written Submission of case put orally at the Hearings held the week commencing 12 August 2024

The Joint Councils' written summary of the oral submissions made during Issue Specific Hearing 3 (ISH3) and Compulsory Acquisition Hearing 1 (CAH1) have been set out in the titled document (our reference: M5J10.D4HS) submitted at D4. This submission also comprises the Joint Councils' responses to Action Point arising from ISH3, as well as a number of follow-up responses to the agenda items within ISH3 and CAH1. The following are the Action Point items and hearing agenda items that have been followed up by the Joint Councils:

- ISH3 Action Point 7 – please refer to Section 2.8 and Appendix A of this Written Submission
- ISH3 Action Point 25 – please refer to Section 2.8 of this Written Submission
- ISH3 Action Point 29 – please refer to Section 2.8 of this Written Submission and the Joint Councils Design Statement
- ISH3 Action Point 33 – please refer to Section 2.8 of this Written Submission
- ISH3 agenda item 3(vi) – please refer to Section 2.8 of this Written Submission
- ISH3 agenda item 4(ii) – please refer to Section 2.8 of this Written Submission
- ISH3 agenda item 4(iv) – please refer to Section 2.8 of this Written Submission and the Joint Councils Design Statement
- CAH1 agenda item 3(II) and 3(III) – please refer to Section 3.9 of this Written Submission and the Joint Councils Planning Statement.

Joint Councils' comments on the D3 submissions made by the Applicant and other Interested Parties

The Joint Councils have reviewed the submissions made by the Applicant and other Interested Parties at D3 on 30th July 2024.

The Joint Councils would particularly like to highlight our comments on the following submission items made by the Applicant which are set out below.

Applicant Response to Examining Authority's First Written Questions (ExQ1) [REP3-043]

The Joint Councils have reviewed [REP3-043] and all other submission items from the Applicant that support their Response. The Joint Councils are broadly satisfied with the responses made by the Applicant. Where the Joint Councils have further comments on the Applicant's responses, these are provided in Table 1 of the Appendix of this letter.

Applicant's Response on D2 Submissions [REP3-044]

The Joint Councils have reviewed [REP3-044]. The Joint Councils noted that Section 3 comprises the Applicant's Response to the Joint Councils' comments on the D1 submissions made by the Applicant

[REP2-013] submitted at D2. In [REP2-013], the Joint Councils provided comments to the Environmental Statement documents updated at D1 and the Applicant's Response to Relevant Representations [REP1-034].

The Joint Councils broadly agree with the responses made by the Applicant in [REP3-044]. The Joint Councils would like to point out that the Joint Councils' position on the Scheme within the submitted Relevant Representation [RR-039] has been superseded by updated iterations of the SoCG with the Applicant. Thus, the Joint Councils do not wish to submit any new comments relating to Applicant's Response to the Joint Councils Relevant Representation [RR-039].

The Joint Councils would like to make a comment on Response Reference 13.5. The Joint Councils note that the Applicant has added a statement to Section 4.3.2 of the Water Framework Directive (WFD) Compliance Assessment [REP3-028]. The Joint Councils suggest making the following change to the statement:

'Although this alone may not necessitate the requirement for bank protection, information gathered from survey has shown the watercourse to be eroding both laterally and vertically ~~meaning the river is a likely to be a high energy system and~~ the need for bank protection is likely, along all or part of the river banks through the structure.'

Register of Environmental Actions and Commitments (REAC) [REP3-031]

The Joint Councils have reviewed [REP3-031] submitted by the Applicant at D3.

The changes made by the Applicant from the previous version submitted at D1 [REP1-030] are deemed acceptable. However, the Joint Councils wish to point out that item B4 refers to a 'precautionary method statement' for great crested newts (GCN) in the implementation of the commitment. The second iteration of the Environmental Management Plan will need to ensure compliance with the very specific requirements set out in the GCN District Licence Report [REP3-051].

Other submissions made at D3

The Joint Councils have no specific comments to make in response to the other submission items from the Applicant, as well as the submissions made by other Interested Parties at D3.

Statement of Common Ground (SoCG) with the Applicant

The Joint Councils are supportive of the Scheme in principle, but a number of issues remain under discussion in respect of the Statement of Common Ground (SoCG). Following on from D3, ISH3 and CAH1, three meetings were held between the Joint Councils and the Applicant in August 2024 to move forward the SoCG by progressing the discussion of the remaining and any new outstanding matters with the Applicant.

The Joint Councils have agreed with the Applicant that they submit a revised SoCG at D4. The Applicant shared the draft SoCG with the Joint Councils on 28th August 2024. The Joint Councils have reviewed the draft SoCG and provided feedback ahead of D4, allowing the Applicant to incorporate these inputs into their D4 submission. The Joint Councils will progress the discussion of outstanding matters with the Applicant during the Examination to work towards agreement wherever possible.

If you require any further information, please do not hesitate to get in contact via the M5 J10 Joint Councils project team: M5J10JointCouncils@atkinsrealis.com

Yours sincerely,

Lewis Oliver

Lewis Oliver

Associate Planner for and on behalf of The Joint Councils

APPENDIX

Appendix: Joint Councils comments on the Deadline 3 (D3) submissions made by the Applicant and other Interested Parties

Table 1 – Joint Councils' comments on the Applicant's Response to ExQ1 [REP3-043]

ExQ No.	Chapter	Question	Joint Councils Comments on the Applicant's Response
Q1.0.7	1. General and Cross-topic Questions	<p>Population and Human Health</p> <p>(i) Within [APP-072] summary tables 13-58 to 13-61 are provided, however the text does not entirely correspond, could the Applicant explain the apparent inconsistency, and if appropriate further clarify if the chapter correctly reports the more/less beneficial/adverse effects?</p> <p>(ii) 13.15.16 – 13.15.24 Geographic sub populations under the sub-heading for construction four moderate adverse impacts are identified but eight are listed, can the Applicant please clarify?</p>	<p>In response to point (i) and without any further details, any perceived inconsistencies between the text (summary description of the significant residual effects) and the level of significance of the residual effect reported is likely because different receptors have different "sensitivities" which when used and combined with the magnitude of impact gives the level of residual effect. For example, in Table 13-58 'Planned development seeking consent under application 16/02000/OUT . . .' and 'Planned development consented under application 21/00872/REM . . .' both have the same impact/ text narrative i.e. "Improvements to access for a range of modes arising from Scheme implementation" but because 16/02000/OUT has a "Very high" sensitivity (see Table 13-10) and 21/00872/REM only has "High" sensitivity, slightly greater residual effects ("Large beneficial residual effects") are reported for 16/02000/OUT compared to the "Moderate beneficial residual effects" reported for 21/00872/REM. Both are significant effects in their own right with the same impact type; the difference in the residual effect is because one receptor (16/02000/OUT - Very high sensitivity) is more sensitive to change than the other receptor (21/00872/REM - High sensitivity). This would apply throughout the assessment tables 13-58 to 13.61 and is hopefully the answer to part (i) of Q.1.0.7.</p> <p>In response to (ii) and without further details, paragraph 13.15.21 talks about "four categories" of moderate adverse residual construction effects and proceeds to list these four categories under separate bullet points, with more than one receptor group listed for the first category (access impacts). Possibly this is where the confusion lies and hence the question which seems to indicate a discrepancy. I don't believe there is one.</p>
Q1.0.9	1. General and Cross-topic Questions	<p>Other Consents and Licences</p> <p>The SoCG with the Environment Agency refers to a Temporary Flood Risk Activity Permit (under the Environmental Permitting Regulations 2016) that will be required.</p> <p>i. Please advise what progress has been made on obtaining such a permit.</p> <p>ii. Advise of any impediment that there may be to the grant of such a permit.</p> <p>iii. In the absence of the information of what the permit may or may not allow explain how the ExA can be satisfied there is sufficient understanding of the flood risk and eater management issues that the tests in the NPS NN are satisfied.</p>	<p>The Flood Risk Activity Permit is an EA requirement. Nevertheless, the Joint Councils are satisfied that the approach proposed by the Applicant to mitigating construction phase flood risk is appropriate.</p>
Q1.0.10	1. General and Cross-topic Questions	<p>Equalities Act</p> <p>The people from the informal traveller's site are likely to have protected characteristics and could be regarded as a sensitive population, Page 223 of [APP-0072] Chapter 13 Population and Human Health states "residents have been unwilling to engage with Scheme representatives."</p> <p>i. What has been done to attempt to engage other than the service of documents.</p> <p>ii. Please explain how the responsibilities as a public body in meeting the obligations under the Public Sector Equality Duty have been met.</p>	<p>(i) Whilst the Applicant has clearly taken appropriate actions such as issuing a consultation pack including a S42 Notice and acted on advice from the Traveller Liaison Support Officer at GCC and the 'Friends, Families and Travellers' charity there is nothing in the Applicants response to confirm or otherwise whether any other additional measures other than the issue of documents has taken place i.e. have any visits been made to the site or other attempts been made to engage with the travellers?, which the question appears to be asking.</p> <p>(ii) The response to this question in the Joint Councils' opinion depends on whether the obligations under part (i) of the question have been fully carried out.</p>

ExQ No.	Chapter	Question	Joint Councils Comments on the Applicant's Response
Q2.0.1	2. Air Quality and Emissions	<p>Dust Mitigation</p> <p>The Joint Council [RR-039] identifies the need for dust mitigation, are all parties now in agreement or otherwise that the mitigation provided through the EMP and subsequent Air Quality Management Plan would appropriately control dust emissions?</p>	Yes, as detailed in the SoCG, all Air Quality matters are now agreed. Dust mitigation in the first iteration EMP is adequate. The Joint Councils will welcome the opportunity to review a second iteration EMP and liaison with the appointed Principal Contractor with regards to control of construction dust emissions.
Q2.0.4	2. Air Quality and Emissions	<p>Assessment of slip road closures</p> <p>Paragraph 5.7.15 of ES Chapter 5 (AS-012) indicates that a separate assessment of the slip road closures is not required as the duration of this is 19 months and therefore less than the 2- year threshold given in DMRB LA105 where further assessment is required. However, it is noted that this would be concurrent with the overall construction period, which is greater than 2 years, and therefore the slip road closures have the potential to further alter the existing traffic flows. The Applicant is requested to confirm how the slip road closures have been factored into the overall construction phase assessment.</p>	The Joint Councils raised a similar query when reviewing the original ES, noting that the potential for effects of construction traffic in combination with diverted traffic during road closures had not been considered. The Applicant addressed this with ES revisions presented in paragraphs 5.7.7 – 5.7.16 of AS-012. The scheme, including this potential in-combination effect, has been assessed in accordance with the (agreed) methodology in DMRB LA105. The applicant should ensure that assumptions made in the ES revisions regarding construction traffic in-combination with traffic management for the slip road closures is revisited when the EMP 2nd iteration is developed and assessment undertaken if required.
Q3.1.4	3.1 Habitat Regulations Assessment	<p>Stage 1 screening - Coombe Hill SSSI (Severn Estuary sites)</p> <p>The relevant representation from the Gloucestershire Wildlife Trust (RR-014) highlights a concern that the improved accessibility of the Coombe Hill Canal SSSI as a result of the Proposed Development has not been considered.</p> <p>i. GWT are invited to expand on this concern and give details of how they proposed this should be considered, as it is noted that the Proposed Development itself does not provide additional housing.</p> <p>ii. The Applicant is requested to provide information on how the HRA has considered the improved connectivity as a result of the Proposed Development.</p> <p>iii. Natural England are also invited to comment on these matters.</p>	Whilst the Scheme directly and indirectly supports growth in jobs and housing by providing improved connections in west and north west Cheltenham, the Applicants response on the HRA appears to adequately demonstrate that an increase in the resident population has been considered and there would be no significant effects on the Coombe Hill SSSI (Severn Estuary sites). The Scheme does not provide direct access to the SSSI and the highways improvements are more aligned to reducing congestion. Planning applications for future development will be determined on their own merits and will need to demonstrate that those sites are suitable for the intended use and that mitigation and control measures will be adopted during the construction phase to minimise pollution and environmental effects, therefore, there is little scope for cumulative effects.
Q6.2.3	6.2 Draft DCO Schedule 2 – Requirements	<p>Requirement 12 Surface water drainage</p> <p>(i) Is the word 'reflect' appropriate in delivering the mitigation measures in chapter 8, would not it better to 'accord with'?</p> <p>(ii) The EMP Requirement does not refer to drainage or flood compensation areas so how is the maintenance of these to be secured?</p> <p>(iii) Do the Councils and Environment Agency agree the requirement appropriately delivers mitigation?</p>	<p>(i) Reference is made to the Applicant's written summaries of oral case for Issue Specific Hearing 2 (ISH2) (REP1-047), page 37. However, this response referenced states that this agenda item was not discussed. Can this be clarified?</p> <p>(ii) No comment on this item</p> <p>(iii) The Joint Councils are satisfied that the proposed drainage as presented in Appendix 2.1 Drainage Strategy of the Environmental Statement provides the appropriate level of mitigation for attenuation of increased surface water runoff volumes and pollution control</p>
Q10.0.4	10. Geology and Soils	<p>Best and Most Versatile Agricultural Land</p> <p>Please can the Applicant also demonstrate how the economic and other benefits associated with the retention of the Best and Most Versatile Agricultural land is outweighed by the benefits of the DCO proposal having regard to NPSNN Paragraph 5.176?</p>	Response generally clarifies the question, but there may be further discussions required / questions by the Examiner on why the need for the scheme outweighs the loss of BMV land. No economic assessment has been completed to consider the loss of BMV land against the need for the scheme but the loss of BMV land is inevitable so it is either lose the BMV land or cancel the scheme. Loss has been mitigated as far as practicable by minimising permanent land take and using the most direct route.
Q12.0.11	12. Noise and Vibration	<p>Operational phase – modelling outputs</p> <p>It is not clear how the modelling outputs listed in Table 6-39 of ES Appendix 6.2 [APP-083] relate to the total receptors assessed as listed in Table 6-23 (up to 14,404 receptors). Whilst it is noted that Table 6-39 provides a summary of</p>	Response adequately clarifies the question. It can however be noted that the correct reference is Table 6-39 within ES Appendix 6.1 [APP-084].

ExQ No.	Chapter	Question	Joint Councils Comments on the Applicant's Response
		<p>"representative receptors", no information is given as to how these receptors were chosen.</p> <p>The Applicant is requested to explain how the receptors were identified.</p>	
Q12.0.15	12. Noise and Vibration	<p>Cumulative effects assessment</p> <p>Table 6-31, and the subsequent assessment in Table 6-34 of ES Chapter 6 [AS-014], appear to be related to existing properties, however a higher number are assessed in the cumulative assessment than the project alone assessment, with no explanation given.</p> <p>The Applicant is requested to provide clarification on this point.</p> <p>The Applicant is also requested to confirm if they are reliant on this to conclude no likely significant effects to some receptors.</p>	Response adequately clarifies the question. It can be noted, as explained in other responses, that Table 6-34 also takes into account contextual factors to determine significant effects.
Q14.0.1	14. Socio-economic Effects	<p>Effects on Local Businesses</p> <p>Reference is made to the potential adverse effect on the café business run from the layby on the A4019 and the Old Spot PH. How has the effect been considered on the individual businesses and the staff affected?</p>	For local businesses that are temporarily or permanently affected by a Scheme, mitigation should seek to avoid or prevent adverse effects on the businesses; and then (if this is not possible), to reduce or abate the effect; and then, if necessary, to offset them. In the Applicants response it would appear that the negotiation process is ongoing, and this has included clarifying the exact business needs and exploring opportunities to find an alternative location (for the breakfast van), with contingency for possible compensation.
Q14.0.3	14. Socio-economic Effects	<p>Effects on Local Business</p> <p>In light of the concerns expressed in both [RR-017 and RR-019] what reassurance can you provide to the ExA that the effects on the local business have been properly taken into consideration when the full effects are yet to be determined?</p>	Further to the above, the continued uncertainty and potential effects on the businesses and business owners is recognised; however, it would appear that the Applicant is doing everything possible to engage with the business owners to find a solution and that this is dependent on having the detailed design and appointment of a contractor etc.
Q16.0.3	16. Water Environment – Flood Risk, Water Quality and Resources	<p>Flood Risk</p> <p>Please can the Applicant and the EA confirm how the ExA can be satisfied that there will be no significant construction phase flood effects (fluvial and surface water) in the absence of any construction phase assessments? The Applicant should demonstrate how adequate floodplain storage and compensation areas will be in place to avoid any overall adverse impacts during construction.</p>	The Joint Councils welcome that the applicant has now committed to hydraulic modelling of the construction stage arrangements.
Q16.0.4	16. Water Environment – Flood Risk, Water Quality and Resources	<p>Flood Risk</p> <p>How can the SoS be assured that the appropriate assessments have been undertaken to meet the tests in the PPG and NPPF where outstanding matters are yet to be assessed?</p>	The Joint Councils understand that the FRA confirms the scheme meets the sequential and exception tests, unless advised otherwise by EA.
Q16.0.8	16. Water Environment – Flood Risk, Water Quality and Resources	<p>Flood Risk Assessment - Additional Data Sources</p> <p>Cross-reference is made in Appendix 8.1A of the FRA [AS-023] as "providing some of the investigations that explain how the sequential test was applied." However, no information is provided in this appendix other than a reference to a separate report, West Cheltenham Link Road Route Corridor Assessment (Atkins, February 2021). The Applicant is requested to either identify where in the application documents this assessment can be found or, if it has not been included in the application documents, provide a copy to the Examination.</p>	No Applicant response has been provided to date to this item, however, it is understood by the Joint Councils that the sequential test for the West Cheltenham Link Road options that is referenced by the Applicant is the critical element of the sequential test with regards to M5 J10. Other aspects of the proposed works to upgrade the junction, by definition, cannot be located elsewhere.

ExQ No.	Chapter	Question	Joint Councils Comments on the Applicant's Response
Q16.1.2	16.1 Water Framework Directive (WFD)	<p>Water Framework (WFD) assessment</p> <p>The Applicant is requested to provide an updated Water Framework Directive Assessment [APP-109] to include consideration of the programme of measures needed to achieve the environmental objectives in the river basin district, and consider whether the Proposed Development could restrict the options for future plans and projects to achieve good ecological status in the Severn Estuary, as noted to be required in the EA relevant representation [RR- 013].</p>	<p>Thank you for providing the link to Rev2 of the WFD assessment and making the small number of changes. I continue to be in agreement that the assessment appropriately concludes a low risk of non-compliance with the WFD but that consultation with EA is required, during construction and following sign off of the completed scheme, in order to verify the implementation of mitigation and the effectiveness of measures cited within the assessment.</p>