

Your Reference

Our Reference  
2745292/TAW1



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3 September 2024

Dear Sirs

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

**Deadline 4 Submissions by Bloor Homes Limited and Persimmon Homes Limited (Interested Party Reference Numbers 20047701 and 20047702) (together the Interested Parties)**

Please find enclosed the written post hearing submissions (including written submissions of oral cases made at the hearings) of the Interested Parties for ISH3 and CAH1.

If you require anything further, please let us know.

Yours faithfully

[Redacted signature]

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REFERENCE TR010063

APPLICATION BY GLOUCESTERSHIRE COUNTY COUNCIL (THE APPLICANT) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE M5 JUNCTION 10 HIGHWAYS IMPROVEMENT SCHEME

WRITTEN POST HEARING SUBMISSIONS INCLUDING WRITTEN SUBMISSIONS OF ORAL CASES MADE AT THE ISSUE SPECIFIC HEARING 3 (ISH3) AND COMPULSORY ACQUISITION HEARING 1 (CAH1) W/C 12 AUGUST 2024

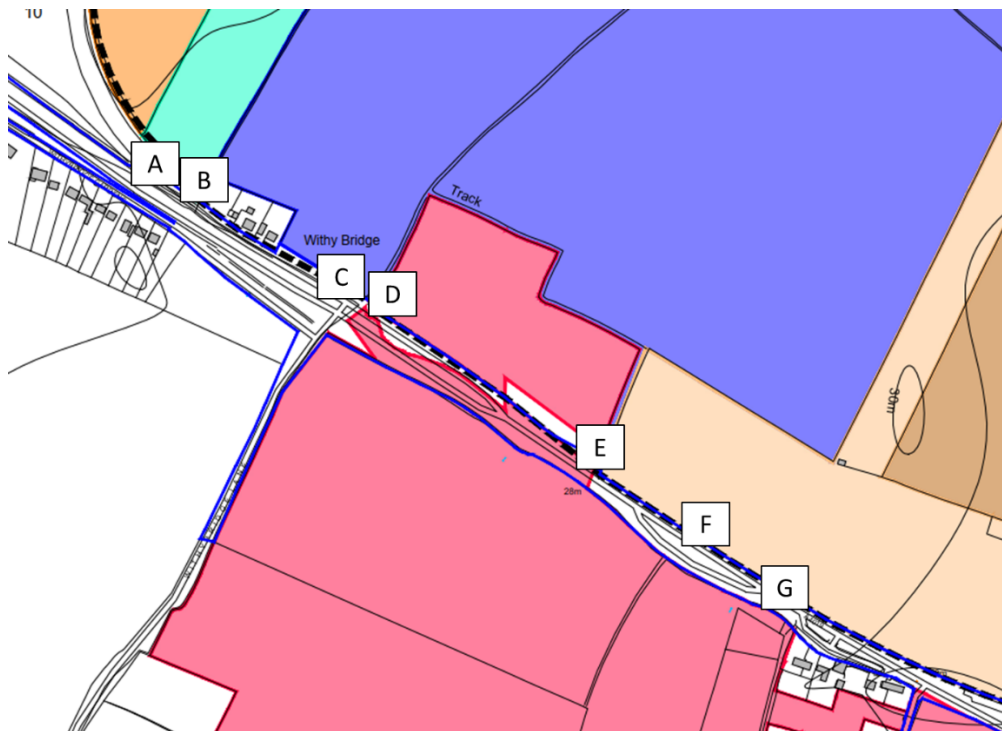
MADE ON BEHALF OF BLOOR HOMES LIMITED AND PERSIMMON HOMES LIMITED

1 ISH3

Item 4 Traffic and Transport

*Existing Access Arrangements*

- 1.1 There are seven accesses into the Safeguarded Land north of the A4019 which are affected by the Scheme, labelled A – G below.



- 1.2 **Access A** is an ungated track which connects from the merge of the A4019 slip road with Tewkesbury Road. It provides access to a traveller site adjacent to the M5. This access is not located on land within the control of Bloor Homes. The types of vehicles using Access A are unknown but likely to include large vans or smaller heavy goods vehicles.
- 1.3 **Access B** is a field gate which joins the track forming Access A. The gate serves agricultural land which again is not located on land within the control of Bloor Homes. The types of vehicles using Access B are likely to include similar vehicle types to Access C (see below).
- 1.4 **Access C** is an ungated track which adjoins the eastern end of the layby on the A4019. It serves the 'Bruton and Counsell' land of some 47Ha which is in arable crop rotations. It is the largest

single land ownership within the Safeguarded Land and is within the control of Bloor Homes. It is the main access to this land and is in regular use for a wide range of agricultural machinery and articulated lorries (delivering fertiliser or removing straw). Agricultural vehicles access the land through a gateway that is currently 3.8m in width, but there is ample space at present to widen this – it should be noted that farm vehicles are increasing in size due to the need to achieve economies of scale, the largest widths at present are already 4m for current machines (as per John Deere combine harvester specifications). The gateway can presently be easily increased to accommodate larger vehicles by a small widening of the current access track, subject to the necessary permissions.

- 1.5 **Access D** is an ungated track which immediately adjoins Access C. It is owned by Gloucestershire County Council and is in agricultural use. Usage is likely to be similar to Access C.
- 1.6 **Access E** is a gated vehicle crossover from the A4019. It is a strip of land which continues north into the Bruton and Counsell land, serving as a secondary access which is important in that it allows an alternative if there is a traffic issue near the M5 junction and a need to go an alternative way back to the farm yard/grain stores etc. From the strip of land, a further gated access is provided on the eastern side. This provides access into the Carter owned land (9.55Ha in agricultural use). This land is also in the control of Bloor Homes. Usage of this gate is likely to be similar to Access C.
- 1.7 **Access F** is further east along the frontage of the Carter owned land. It is a gate but has become overgrown by hedgerow and is not believed to be currently use. It could however be opened up if required.
- 1.8 **Access G** is further east still along the Carter land frontage. It is a vehicle crossover leading to a gated field access. Usage of this gate is likely to be similar to Access C.

*Proposed Replacement Access*

- 1.9 The Scheme would amalgamate Access A – G into a single signal controlled junction from the A4019 Tewkesbury Road. The single junction would split into eastern and western segments. The eastern segment would combine to replace Accesses E, F and G. The western segment would combine to replace accesses A, B, C and D, all of which are in regular use.
- 1.10 A vehicle tracking drawing has been provided by the Applicant of the combined farming access which highlights a vehicle track for a tractor and hay wagon with a length of 19m and width of 2.5m. However, this does not meet the landowner's access requirements for the following reasons:
- (a) Farm machinery is wider than the design vehicle used and is typically in excess of 3m wide (noting also that vehicle sizes are increasing as indicated above).
  - (b) At peak times the combined access track will be frequently used – each landowner may have 4 – 5 tractor rigs towing machinery in order to ensure constant take off from a combine harvester.
- 1.11 Inevitably therefore at certain times there would be conflicts between multiple oncoming vehicles in this area. It has not been shown that two vehicles towing machinery exceeding 3m width could pass within the access road. This could then result in conflicts within the signalised junction arrangement and in particular vehicles being 'stuck' within the junction.
- 1.12 It is the landowner's view that access to its land should be provided via a direct north-south road from the junction, as opposed to the current arrangement which provides a tight corner radius which will cause operational and safety issues at peak times.

- 1.13 This is a genuinely held view from a farm operations perspective. Although the existing access gates are simple, each landowner is able to access its land independently. With the Scheme as proposed, this will be shared via a narrow track, and there is a risk of conflict between oncoming large machinery.

#### *Future Development of the Safeguarded Land*

- 1.14 In the existing road arrangement, the landowner and Bloor Homes benefit from an extensive road frontage onto the A4019, which provides opportunities to create accesses to serve development of the Safeguarded Land.
- 1.15 With the Scheme as proposed, the design is such that future access is intended to be limited to a single location, within land owned by the Applicant. It has been confirmed by the Applicant that they intend to lever this arrangement to create a 'ransom' situation to its own benefit, whilst at the same time indicating it is reliant on funding from the Safeguarded Land to deliver the Scheme. The Applicant is therefore impeding delivery of development of the Safeguarded Land and putting into doubt the availability of funding on which it is relying. The Scheme should be facilitating not impeding delivery of the Safeguarded Land.
- 1.16 Likewise, the Applicant has yet to confirm that the future highway boundary will align with the revised boundary of land within the control of the landowner and Bloor Homes and that there will not be any retained strips of land restricting access.

#### Item 5 Funding

##### *Need for the Scheme and Certainty of Funding*

- 1.17 The need for the Scheme to mitigate the transport related effects of North West Cheltenham (A4) should be determined through means of a planning application and associated transport effects. A planning application should be determined against the relevant national and local planning policies. The DCO application is decided upon a different policy framework and the considerations about need cannot be applied to individual planning applications.
- 1.18 Bloor Homes and Persimmon Homes are not inviting the ExA to reach any conclusions about the need for the Scheme in relation to North West Cheltenham (A4) or the likelihood or quantum of any contribution that might arise through a S106 payment. That is a matter for a separate decision maker through the planning application process.

##### *Proposed Requirement*

- 1.19 In respect of the suggestion by St Modwen that a requirement could be imposed on the DCO to allow further dialogue on funding matters, the Interested Parties do not consider that this would overcome or address the scheme funding issues. The Applicant's ability to fully fund the scheme is essential to the determination of the DCO application. A requirement would only apply post making of the DCO. In addition, it is doubtful that any requirement to enter into dialogue regarding funding would be workable or enforceable in practice.

## **2 CAH1**

### Compulsory acquisition of land for the Scheme

- 2.1 The 'Guidance related to procedures for the compulsory acquisition of land' (DCLG September 2013) provides that an applicant must demonstrate how its scheme will be funded and how any funding shortfalls will be addressed (paragraph 17). The timing of the availability of funding is also a relevant factor (paragraph 18). The Applicant has failed to satisfy these requirements.
- 2.2 The Applicant acknowledges that the Scheme is not presently fully funded. It has indicated that developer contributions will be secured to meet any funding shortfalls. The Applicant has

however failed to show with any certainty that such developer contributions will be capable of being secured within the time for implementation of the Scheme pursuant to the DCO or at all. In particular:

- (a) No reliance can be placed on a developer contribution being made by North West Cheltenham (A4) on the basis that this is matter for determination through a separate planning application and no such contribution has yet been agreed.
- (b) The Applicant suggests that development of the Safeguarded Land could provide 33% of the shortfall in funding. However, given the uncertainty as to if or when development of that land may come forward, no reliance can be placed on this.

2.3 The uncertainty as to the funding for the Scheme (including that no reliance can be placed on the Applicant receiving a developer contribution from North West Cheltenham (A4) and the Safeguarded Land) will need to be taken into account by the Examining Authority in determining whether there is a compelling case in the public interest for the compulsory acquisition of land to enable the Scheme to proceed.

**GOWLING WLG (UK) LLP  
ON BEHALF OF THE INTERESTED PARTIES**