

# M5 Junction 10 Improvements Scheme

**Applicant comments on Interested Parties Response  
to Examining Authority's First Written Questions  
(ExAQ1)**

**TR010063 - APP 9.66**

Rules 8 (k)  
Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9  
September 2024

# Infrastructure Planning Planning Act 2008

## The Infrastructure Planning (Examination Procedure) Rules 2010

### M5 Junction 10 Improvements Scheme Development Consent Order 202[x]

---

#### Applicant comments on Interested Parties responses to Examining Authority's First Written Questions (ExAQ1)

---

<b>Rule Number:</b>	Rule 8 (k)
<b>Planning Inspectorate Scheme Reference</b>	TR010063
<b>Application Document Reference</b>	TR010063/APP/9.66
<b>Author:</b>	M5 Junction 10 Improvements Scheme Project Team

<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
Rev 0	September 2024	Deadline 4

# Contents

Chapter	Page
<b>1. Introduction</b>	<b>4</b>
<b>2. Applicant's comments on Interested Parties' response to ExQ1</b>	<b>5</b>
2.1. Cheltenham Borough Council [REP3-063]	6
2.2. Joint Councils [REP3-064]	10
2.3. Environment Agency [REP3-070]	27
2.4. Historic England [REP3-072]	30
2.5. National Highways Limited [REP3-075]	32
2.6. Natural England [REP3-076]	38
2.7. Gowling on behalf of Bloors and Persimmon [REP3-077]	40
2.8. House in the Tree [REP3-078]	44
2.9. St Modwen and MLPL [REP3-079]	47

# 1. Introduction

- 1.1.1. This document sets out the Applicant's comments on responses, by various Interested Parties (IPs), to the Examining Authority's First Written Questions (ExQ1) [PD-010].
- 1.1.2. The Applicant has commented, in section 2 below, on a subsection of the responses to ExQ1 from the following Interested Parties:
- Cheltenham Borough Council [REP3-063]
  - Joint Councils [REP3-064]
  - Environment Agency [REP3-070]
  - Historic England [REP3-072]
  - National Highways [REP3-075]
  - Natural England [REP3-076]
  - Gowling on behalf of Bloors and Persimmon [REP3-077]
  - House in the Tree [REP3-078]
  - St Modwen & MLPL [REP3-079]
- 1.1.3. Where issues raised within the IP's response have been dealt with previously by the Applicant within one of the application or other examination documents, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4. In order to assist the Examining Authority, the Applicant has not provided comments on every point made by Interested Parties in their responses to ExQ1, including for example statements which are matters of fact and those which it is unnecessary for the Applicant to respond to. However, and for the avoidance of doubt, where the Applicant has chosen not to comment on matters contained in the response, this should not be taken to be an indication that the Applicant agrees with the point or comment raised or opinion expressed.

## 2. Applicant's comments on Interested Parties response to ExQ1

## 2.1. Cheltenham Borough Council [REP3-063]

ExAQ No.	Interested Parties Response	Applicant Response
<p><b>Q5.0.13</b></p>	<p>Q: i) What is the latest position in respect of the GCC Local Developers Guide?                      ii) What Status do you consider it currently to have?</p> <p>A: The GCC Local Development Guide (June 2024) is currently in draft and undergoing public consultation until the end of July. It will ultimately replace the 2021 version. It is not intended to be part of the development plan, nor a supplementary planning document. It is therefore a material consideration in the determination of planning applications, with the local planning authorities responsible for determining what weight it has in the decision-making process. Whilst it is in draft, the weight to be ascribed to it is presumably quite low.</p>	<p>As outlined in paragraphs 107 and 108 of the adopted Gloucestershire County Council Local Development Guide 2021 (March 2021):</p> <p><i>107. The developer contributions sought through S106 planning obligations must solely assist in mitigating the adverse impacts of new development on the local transport network. They cannot be used as an alternative funding stream for addressing pre-existing infrastructure issues, unless in doing so it can be justified as a demonstrable mitigation measure. However, there may be circumstances where proposed mitigation aligns with preidentified infrastructure priorities set out within the adopted and emerging Gloucestershire Local Transport Plan. Consequently, GCC will seek to promote technology based 'smart' solutions which future proof infrastructure and allow demand management and travel solutions to make use of advances in technology.</i></p> <p><i>108. GCC will spend CIL monies in accordance with the Charging Authorities' IDPs and agreed priorities. This means that CIL monies can appropriately be spent on more strategic infrastructure for walking, cycling, public transport and highways in combination with S106 planning obligations which may be required to mitigate the site-specific issues where they are justified including mitigating the impacts of overspill parking in neighbouring areas, plus the encouragement of car/permit-free developments, etc.</i></p> <p>Whilst an updated Local Development Guide, is currently undergoing public consultation, the existing guide provides the necessary information to local planning authorities, developers and all stakeholders on the types of infrastructure which Gloucestershire County Council is responsible for and may seek funding towards; and where S106 contributions and/or Community Infrastructure Levy</p>

ExAQ No.	Interested Parties Response	Applicant Response
		<p>payments may be necessary to mitigate the impacts of a development, and make it acceptable in planning terms. This supports the Applicant's position regarding the funding of the Scheme proposals.</p>
<p><b>Q5.0.16</b></p>	<p>Q: (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 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>A: (ii) Programme of development see Q5.0.10</p> <p>(iii) HBD Golden Valley Limited / CBC are supportive of improvements to J10 of the M5. Any contributions towards the scheme however must be compliant with CIL regulation 122. Regarding HBD/CBC's two planning applications:</p> <p>Southern Parcel (23/01874/OUT):</p> <ul style="list-style-type: none"> <li>The scheme is not required to deliver the Southern Parcel as there is sufficient capacity on the A40 following recent upgrades to absorb it without materially impacting J10.</li> </ul>	<p>The need for the Scheme to unlock the development of the West Cheltenham Strategic Allocation as a whole has been identified by the JCS Transport Strategy Evidence Base. The DS6a scenario tested a link road from the south and M5 J11. Based on the model outcomes and understanding of design constraints for the two access strategies, there was justification for discounting the primary access from the south (M5 Junction 11) in favour of the north (M5 Junction 10). Please see 5.8.7 of the Evidence Base.</p> <p>The need for the Scheme to facilitate the Strategic Allocations has been reaffirmed by the Joint Council's GC3M Assessment that establishes the traffic impact of development associated with the West of Cheltenham and North West Cheltenham Strategic development sites on the surrounding road network, in the absence of the proposed M5 Junction 10 Improvements Scheme.</p> <p>In its conclusions the assessment outlines the following:</p> <ul style="list-style-type: none"> <li>At 2041 (just prior to the Scheme design year of 2042) there are parts of the local road network with capacity issues at several junctions in the absence of further development.</li> <li>Despite the inclusion of proposed mitigation measures relating to individual developer planning applications, even with the deadweight level of development, there remains residual capacity issues at several junctions.</li> <li>In the deadweight scenarios, the capacity issues at the already congested junctions increase but for the most part, other key junctions are relatively unaffected (exceptions include the Coronation Square junction, High Street approach to the</li> </ul>



ExAQ No.	Interested Parties Response	Applicant Response
	<p>Therefore, a contribution is not necessary to make the development acceptable in planning terms.</p> <ul style="list-style-type: none"> <li>Few vehicles from the Southern Parcel will use J10 given the inclusion of a bus gate within the masterplan that prevents private vehicles traveling north through the allocation. Therefore, a contribution would not be directly related to the development.</li> <li>The Southern Parcel is also employment-led delivering around 1m sqft of non-residential floorspace. As per the adopted CIL Charging Schedule for Cheltenham – which has a nil rate for employment – non-residential uses cannot support contributions. Therefore, a contribution would not be fair or reasonably related in scale and kind to the development.</li> </ul> <p>Northern Parcel (23/01875/OUT):</p> <ul style="list-style-type: none"> <li>The scheme may be required to deliver the Northern Parcel, alongside other cumulative developments. Therefore, a contribution may be necessary to make the development acceptable in planning terms.</li> <li>Some traffic from the Northern Parcel might use J10 and therefore benefit from the scheme. If so, a contribution would be directly related to the development.</li> <li>Subject to an agreed charging methodology, a proportionate contribution based on impact is required to ensure that is fair and reasonably related in scale and kind to the development.</li> </ul> <p>In short, contributions towards the scheme can only be justified if they pass the legal tests as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. It is HBD/CBC's position that no contribution can be sought from the Southern Parcel, and a proportionate contribution might be sought from the Northern Parcel (subject to evidence of impacts).</p>	<p>Gloucester Road/A4019/ junction). This suggests that the 'deadweight' position is potentially achievable in the absence of the M5 Junction 10 Improvements Scheme – but there may be some isolated junction improvements (above the identified Elms Park mitigation) required to ensure emerging capacity issues seen in the reference case are not exacerbated by new development.</p> <ul style="list-style-type: none"> <li>With 50% of development delivered, again problems are exacerbated where congestion issues were already observed in the reference case. Some of the biggest impacts are seen along the A40 corridor (particularly the Arle Court junction and M5 Junction 11) but other locations such as the Withybridge Lane junctions are also shown to be far above their available capacity. This increases the need for further mitigation (above that identified for the Elms Park site) in order to resolve the issues identified.</li> <li>With 100% development, there are widespread congestion issues across almost all of the junctions analysed (both with and without the Elms Park mitigation). This provides a clear indication that this level of development cannot be accommodated in the absence of major scheme intervention.</li> </ul> <p>When considering the outcomes of the GC3M assessment it confirms the severity of cumulative impact that would be felt by the local road network in the absence of the M5 Junction 10 Improvements Scheme. Whilst a proportion of deadweight development could be achieved on an individual development site basis the strategic need identified by the JCS cannot be met without the intervention of a Scheme that addresses the cumulative impacts of the Strategic Allocations.</p>



ExAQ No.	Interested Parties Response	Applicant Response
	<p>There are also other sources of funding that GCC can explore to fill any residual funding gap once appropriate contributions have been secured from developments. Delivery of new homes and economic growth are at the top of the new Labour Government's agenda, so it would not be unreasonable to assume that additional funding and support for important infrastructure schemes such as this would be forthcoming.</p>	
<p><b>Q5.0.17</b></p>	<p>Q: 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. (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? (ii) Can each of the housebuilders clarify their position on this matter?</p> <p>A: The Applicant has a simplified methodology for assessing impact of development on the motorway and therefore the degree of reliance on the Scheme. We as the Golden Valley Developers (HBD/SMH/NEMA) have constructed an accurate traffic model which has incorporated the It is not detailed comments received from GCC.</p> <p>The relative impacts that the model demonstrates are summarised in Q5.0.16 above.</p> <p>We have yet to receive any feedback from GCC or the Applicant on the model outputs.</p>	<p>It is not appropriate for the Applicant, in the context of this DCO, to comment on information submitted in support of individual planning applications, such as the traffic modelling submitted by the Golden Valley Developers.</p>

## 2.2. Joint Councils [REP3-064]

ExAQ No.	Interested Parties Response	Applicant Response
<b>1. General and Cross-topic Questions</b>		
<b>Q1.0.2</b>	<p>(i) No, this understanding is incorrect. It is anticipated that the Second Iteration Environmental Management Plan (EMP) (and associated documents) would be submitted for approval.</p> <p>(ii) In providing comments on the Environmental Statement (ES), Annex B, Environmental Management Plan, the Joint Councils (Air Quality) noted that a Second Iteration of the EMP will be produced by the Principal Contractor and will include at Annex B.4 an Air Quality Management Plan. It is presumed this will detail mitigation measures to be implemented for the control of construction dust, as described in Section 5.8 of the ES and the Register of Environmental Actions and Commitments (REAC) and made specific for the intended construction methods and activities (see ES para 5.8.3).</p> <p>The Joint Councils' comment also indicated that we would welcome submission of the Second Iteration EMP to the Joint Councils for comment and approval prior to commencement of works.</p> <p>Furthermore, paragraph 3.3.1 of the EMP says:</p> <p><i>Detailed design will inform the second iteration Management Plans which will be contained in the EMP (2nd iteration), and it is those second iteration Management Plans which will be the relevant plans for mitigating the impacts of construction. As the second iteration Management Plans will fall within the EMP (2nd iteration) then, pursuant to Requirement 3 of the DCO, they will be prepared in consultation with the relevant planning authority and National Highways and submitted to and approved by the county planning authority prior to</i></p>	<p>Item (i)</p> <p>As detailed in REAC [REP3-031] item G1, no part of the authorised development is to commence until an EMP (2nd iteration), substantially in accordance with the EMP (1st iteration), for that part has been submitted to and approved by the Secretary of State, following consultation with the county planning authority, relevant planning authority and strategic highway authority to the extent that it relates to matters relevant to its functions.</p> <p>The completion of an EMP (2nd iteration) is secured by DCO Schedule 2, Requirement 3(1). This states that 'No part of the authorised development is to commence until a EMP (2nd iteration) for that part has been prepared in consultation with the relevant planning authority, county planning authority and the strategic highway authority and submitted to and approved in writing by the Secretary of State'.</p> <p>Item (ii)</p> <p>The approach referred to by the Joint Councils with regards to the production of the 2nd iteration of the Environmental Management Plans is correct, except that the Applicant would note that the dDCO does not secure that the Joint Council's approval is required for the discharge of requirement 3, being the requirement which secures the delivery of the EMP (2nd iteration). The arbiter of the requirement is, as per changes to the dDCO made at Deadline 4, the Secretary of State.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p><i>commencement of development of the relevant part of the authorised development.</i></p> <p>We therefore expect the second iteration EMP (and associated annexes) to be submitted to the Joint Councils prior to commencement of works.</p>	
<b>1.1</b>	<b>Environmental Statement (General)</b>	
<b>Q1.1.4</b>	<p><b>Cumulative Effects Assessment</b></p> <p>(i) The approved Local Development Scheme sets the programme for the preparation of the Cheltenham, Gloucester and Tewkesbury Strategic and Local Plan (SLP). Regulation 18 consultation took place end 2023/beginning of 2024 and a further Regulation 18 consultation is scheduled Spring 2025. This site will be assessed alongside all submitted sites. Should the site be allocated then there could be potential that some units may be realised before the end of 2031, however we cannot determine this at this stage as this will be subject to the outcomes of the SLP.</p> <p>Paragraph 15.3.14 in CEA ES Chapter (APP-074) sets out the RFFP long-list criteria that has to be met in order for a project to be screened for inclusion within the CEA. Criterion 6 is relevant and states:</p> <p><i>'Development Plan projects such as the site allocations, safeguarded sites and transport initiatives scheduled for development within the Joint Core Strategy (JCS) (therefore proposed for implementation by 2031, which pre-dates the operational future baseline for the Scheme) that are within 5 km of the Order limits (with the flexibility to consider additional projects if consultation with TBC and CBC identifies a need). The inclusion of such projects is subject to desk-based validation of sufficient evidence available relating to the</i></p>	<p>The Applicant has submitted a Technical Note at Deadline 4 (TR010063/APP/9.65). The Technical note provides a fuller response to that provided by the Applicant at D3 and sets out the basis of the applications and allocations that have been considered within the cumulative effects assessment for the Scheme.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p><i>projects to allow a meaningful cumulative effects assessment for the Scheme, together with consideration of whether such projects are dependent upon the Scheme for their progression and/or have the potential to affect the traffic flows on links that are relevant to the transport, noise and vibration and air quality assessments'</i></p> <p>The safeguarded land to the west of Cheltenham, immediately adjoining the West Cheltenham Development Area is scheduled for development to come forward after the plan period – post 2031. That places it outside the qualifying criteria for inclusion in the CEA as an RFFP. In addition, there is an existing waste treatment site on this land. Due to the location of the waste treatment site on the land and the associated difficulty in bringing the site forward would suggest that it would not be within a timeframe for consideration by the Scheme. The two safeguarded sites (West of Cheltenham and north-west of Cheltenham) are therefore different in that regard.</p> <p>(ii) Safeguarded land at north-west Cheltenham is a different site from the one that point (i) relates to. This area of safeguarded land is included within the scope of the ES, as an RFFP that has been considered within the CEA in all topic chapters. It is referred to in the ES as 'safeguarded land to the north-west of Cheltenham' and appears within the CEA. The assumptions used in the CEA are set out in the RFFP shortlist at Table 15-3 (p29 of APP-074).</p> <p><b>Note:</b> The Joint Councils are not required to answer this question, but it also provides context for the answer to Q1.1.5 (i) below so we have included the Applicants response.</p>	
<p><b>Q1.1.7</b></p>	<p><b>Cumulative Effects Assessment</b></p> <p>(ii) The Applicant has circulated their draft response to Q1.1.7 to the Joint Councils prior to the submission at Deadline 3. As</p>	<p>The Applicant has submitted a Cumulative Effects Assessment (CEA) Technical Note at Deadline 4 (TR010063/APP/9.65).</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>stated in paragraph 15.3.15 of the ES CEA Chapter [APP-074], the RFFP list was last updated in June 2023. It is of the Joint Councils' understanding that the Applicant proposes to prepare a technical note that provides an update on new projects that meet the criteria for RFFPs which have come forward since the last review of the list and assesses their relevance to the Scheme and the CEA. The Joint Councils have no further comment on this proposed approach and welcome the Applicant's intention to include this technical note within the SoCG discussions with the Joint Councils. The Joint Councils look forward to reviewing this technical note at Deadline 4 and are fully committed to ensuring that the final updated cumulative schemes list is accurately agreed upon and any comments from the Joint Councils will be incorporated into the SoCG. The Joint Councils will work closely with the Applicant to ensure that all necessary details are finalised and documented appropriately.</p>	
<p><b>1.2 Need</b></p>		
<p><b>Q1.2.3</b></p>	<p><b>Associated Development</b></p> <p>(i) JCS Policy INF1: Transport Network provides the policy evidence for the case by the Applicant for ISH1 Agenda Item Policy (iv). JCS Policy INF1: Transport Network requires the developers to assess the impact of development on the transport network through a transport assessment that demonstrates any impact including cumulative impacts of the prospective development on atmospheric pollution within the zone of influence of the development. JCS Policy INF1: Transport Network requires development proposals to ensure safe and efficient connections for all modes to the transport and particularly the highway network to enable travel choice for residents and commuters, and to design active travel connections in a way that encourages maximum potential use</p>	<p>No response to point (i).</p> <p>Response to point (ii) -</p> <p>The Applicant agrees with the Joint Councils' response that the West Cheltenham Site cannot be delivered without the M5 Junction 10 Scheme. This is demonstrated by the traffic modelling undertaken for the JCS and the HIF Outline Business Case (OBC) reported in the JCS Transport Strategy Evidence Base (REP3-049) and HIF OBC Traffic Modelling Report (Appendix C of Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) - REP1-046) respectively.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>to ensure that credible travel choices are provided by sustainable modes.</p> <p>(ii) GCC as the Local Highway Authority agrees that the West Cheltenham Site cannot go ahead without the identified improvements. The current traffic situation on the A4019 shows morning queuing back to J10, without the proposed development of the West Cheltenham site. This is shown in the modelling of Scenario P within the TA. Any additional development in the absence of the improvement will exacerbate this situation.</p> <p>Furthermore; GCC understands that the National Highways Grampian Condition is currently under review and may result in a raising of their develop limits pending implementation of J10 south slips in connection with anticipated main line queuing at M5 J10 south bound off-slip and M5 J11 south bound off-slip and Elmbridge Court on the A40. However, that is only a very small part of the picture, harm arising from growth on the local road network in the absence of the re-direction of traffic to the south facing slips is much more severe. The County Council as highway authority has commissioned a separate piece of work using their new multi-modal SATURN model. This re-tests the assumptions of a 1700 deadweight on the local road network and will be the basis for testing a congestion, noise, air quality and safety in accordance with INF1 of the JCS. That modelling re-affirms the local road 1700-unit limit.</p>	
<b>1.3</b>	<b>Site selection and alternatives</b>	
<b>Q1.3.1</b>	<p><b>Alternatives</b></p> <p>The LRN would not operate to an appropriate standard. There are currently issues with queuing back along the A4019 in the base scenario, and congestion on other routes into Cheltenham including routes from J11 and along Princess Elizabeth Way. Currently vehicles arriving from the south travelling to the north and west of Cheltenham</p>	<p>The Applicant agrees with the Joint Councils' response that improvements to M5 Junction 10 in the absence of both the West Cheltenham Link Road and the associated improvements to the A4019 would likely result in unacceptably severe traffic congestion and delay on the local road network. Consequently, improvements to M5 Junction 10 in isolation would not enable the JCS dependant</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>would route from J11, along the A40 and then travel along Princess Elizabeth Way. Making J10 an all movements junction would allow vehicles to utilise this junction and the A4019 to reach these destinations, which in itself is likely to increase the amount of queuing and delay on the A4019 if scheme elements 2 and 3 are not delivered. The knock-on effect of this is that any delay on the A4019 would result in drivers choosing alternate routes, which would include the established routes via J11, the A40 and Princess Elizabeth Way.</p> <p>Therefore the improvements to J10 in isolation would not resolve these wider local road network concerns. This level of delay experienced on the LRN would occur regardless of with and without the allocations and safeguarded land.</p>	<p>developments to be delivered.</p>
<b>2.</b>	<b>Air Quality and Emissions</b>	
<b>Q2.0.1</b>	<p><b>Dust Mitigation</b></p> <p>The Joint Councils accept the Applicant's response that dust mitigation measures are detailed in the Register of Environmental Actions and Commitments (REAC) [REP1-030] and the Environmental Management Plan Annex B4 – Air Quality Management Plan (AQMP) [AS-034].</p> <p>Subsequent to the Joint Councils' Relevant Representation [RR-039], issued in March 2024, a number of the original matters have now been addressed via updates to the Environmental Statement or through specialist meetings. This is reflected within the Statement of Common Ground (TR010063 - APP 8.2) [REP1-034] which now supersedes RR-039, and states that all Air Quality matters are now agreed.</p> <p>The Joint Councils have previously indicated that the submission of the Second Iteration EMP to the Joint Councils for comment and approval prior to commencement of works is welcomed.</p>	<p>The Applicant acknowledges it will consult CBC and TBC on the measures required to manage dust and emissions detailed in the Air Quality Management Plan (2<sup>nd</sup> iteration), including any potential monitoring, and TBC would like to be informed of the results of any monitoring that takes place. For the avoidance of doubt, the Applicant would note that the dDCO does not secure that the Joint Council's approval is required for the discharge of requirement 3, being the requirement which secures the delivery of the EMP (2<sup>nd</sup> iteration). The arbiter of the requirement is, as per changes to the dDCO made at Deadline 4, the Secretary of State.</p>



ExAQ No.	Interested Parties Response	Applicant Response
	<p>Furthermore, Section B.4.4 of the AQMP (1st iteration) [AS-034] indicates that the Principal Contractor will consult with the environmental health departments of TBC and CBC regarding the management of dust and emissions to air during construction of the Scheme. This is welcomed.</p> <p>The Joint Councils also invited the environmental health officers at CBC and TBC to make a response to Q2.0.1. The following response is received from the environmental health officer at CBC:</p> <p><i>'Document reviewed: Annex B4 - Air Quality Management Plan (TR010063 – APP 9.4)</i></p> <p><i>This document identifies suitable methods for the control of fine particulates during the construction phase of the project from a full range of expected sources.'</i></p> <p>The following response is received from the environmental health practitioner at Worcestershire Regulatory Services on behalf of TBC:</p> <p><i>'The identified measures including possible monitoring of dust during the construction phase which due to the length of the construction phase would be acceptable. Close liaison between the contractor, residents and the district council environmental health services will assist in minimising the impact of dust during the construction phases. TBC would wish for monitoring to be carried out with reporting to interested parties.'</i></p>	
<b>Q2.0.3</b>	<p><b>Use of Model Corrections</b></p> <p>The Joint Councils had sought clarification from the applicant in relation to the annualisation factor applied to Site D2. The Applicant's response was satisfactory, explaining that only 5 months of data were available at this location vs 6 months of data at the other 9 sites in the survey, hence the different annualisation factor applied to monitoring data at Site D2.</p>	<p>The Applicant notes that the local bias adjustment factor for the Scheme specific survey of 1.009 was derived by comparing the average results from the CMS monitor at St George's Street (CM1) between 05/07/2019 and 10/01/2020 which was 34.05 µg/m<sup>3</sup>, and the average raw NO<sub>2</sub> concentration from the co-located NO<sub>2</sub> diffusion tubes exposed by the Applicant over the same time period during their site specific survey (site D1), which was 33.75 µg/m<sup>3</sup>. The resulting</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>Co-location of triplicate tubes for Site D1 at the St George's Street CMS to generate a local adjustment factor of 1.009 (as advised in footnote to Table 5-7) is an appropriate approach to bias adjustment.</p> <p>The Joint Councils have no further comment in this respect.</p> <p>The Joint Councils also invited the environmental health officers at CBC and TBC to make a response to Q2.0.3. The following response is received from the environmental health officer at CBC:</p> <p><i>'The raw figures from analysis of NOx monitoring tubes appears to have been annualised using a factor of 1.03, to reflect that the survey only ran for a 6-month period. The annual bias adjustment figure used by CBC to reflect inaccuracies incurred in handling monitoring tubes for 2019 was 0.99. For the record, the bias adjustment figure is still 0.99 when using data for July – December, only. I am not clear on why this report used a "Local bias adjustment factor 1.009, based on comparison between CBC CMS1 and site D1" as reported under table 5-7. It is important to note that the effect of these differences is approximately 1% and the report very marginally over-estimates monitored pollution levels.'</i></p> <p>The following response is received from the environmental health practitioner at Worcestershire Regulatory Services on behalf of TBC:</p> <p><i>'The location of the additional report generated sites appears reasonable relating to the likely impact of the development.'</i></p>	<p>local bias adjustment factor of 1.009 was thus derived from the results of the Applicant's scheme specific survey only.</p> <p>There would have been minor differences between the CBC tube survey and the Applicant's Scheme specific survey which would have led to slight differences in the average NO<sub>2</sub> concentrations and hence the derivation of the local bias adjustment factors: including exposure dates, handling of tubes and analysis batch at the laboratory, even allowing for the fact that both surveys used the same laboratory, Gradko International Ltd Laboratories.</p>
<p><b>Q2.0.5</b></p>	<p><b>Cheltenham Air Quality Management Area</b></p> <p>The results presented in Chapter 5 of the ES indicate that although NO<sub>2</sub> concentrations at modelled receptors within the Cheltenham AQMA are expected to still be in exceedance of the annual mean air quality objective with the Scheme, pollutant concentrations are reduced versus the without Scheme scenario. On this basis, it is not anticipated that the Scheme would adversely affect measures to improve air quality within the AQMA, rather the Scheme assists in</p>	<p>The modelled estimates of total annual mean NO<sub>2</sub> reported for the 2019 base year were verified and adjusted against CBC and TBC air quality monitoring results reported in 2019, as detailed in APP-081 ES Appendix 5.1. Verification and adjustment are detailed in the methodology in AS-012 Air Quality chapter 5.4.27 – 5.4.30, the model adjustment factors were then applied to future year modelling results, as is standard practice. As reported in APP-081 ES Appendix 5.1 of the ES (section 1.4), there were four different adjustment factors for</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>improving connectivity across the road networks within and around Cheltenham, redistributing traffic and reducing traffic flows on some roads. A revised Air Quality Action Plan for the Cheltenham AQMA is under development.</p> <p>The Joint Councils also invited the environmental health officers at CBC and TBC to make a response to Q2.0.5. The following response is received from the environmental health officer at CBC:</p> <p><i>‘The 2020 Cheltenham AQMA was declared due to an exceedance of the Air Quality Standard (AQS) level of NO<sub>2</sub> in a small area around High Street / Poole Way / Swindon Road. More recent monitoring has shown levels of NO<sub>2</sub> slowly declining to below guideline levels in this area, and the AQMA is expected to be revoked in the next 12-18 months, after an extended period of compliance.</i></p> <p><i>Modelling of air quality is provided in “Environmental Statement Chapter 5: Air Quality [TR010063 - APP 6.3]. This predicts an exceedance of the AQS objective of 40ug/m<sup>3</sup> at 3 locations, including a predicted 2027 NO<sub>2</sub> level of 53.8 µg/m<sup>3</sup> at receptor R_59 without the Scheme, and the modelled change of -1.6 µg/m<sup>3</sup>, producing a ‘small’ decrease to 52.2 µg/m<sup>3</sup>. These figures are not supported by recent monitoring of NO<sub>2</sub> levels at this location, carried out by CBC, which produced a 2023 figure of 36.4 ug/m<sup>3</sup>. This discrepancy is largely explained by the considerable post-covid changes in commuting habits that has produced a consistent reduction in NO<sub>2</sub> levels across the borough. Similarly, receptor R_66 has a 2027 modelled level of 44.0ug/m<sup>3</sup>, reducing to 43.4ug/m<sup>3</sup> with the project. The monitored 2023 level at this location was 28.3ug/m<sup>3</sup>. Other modelled levels of NO<sub>2</sub> do not exceed the AQS.</i></p> <p><i>2019 Base figure is considerable over-estimate.’</i></p> <p>The following response is received from the environmental health practitioner at Worcestershire Regulatory Services on behalf of TBC:</p>	<p>different zones within the air quality study area, including one for the Cheltenham AQMA and a separate one for the rest of Cheltenham outside the AQMA (adjustment factors of 4.73 and 3.14).</p> <p>Overall, the model was considered to be performing well at all locations with a tendency to slightly underestimate NO<sub>2</sub> concentrations in 2019 (APP-081 ES Appendix 5.1 1.4.10 – 1.4.11). The Applicant considers that the concentrations estimated in the opening year scenarios are likely to be higher than current monitored results due to the combination of the adjustment factors, and the change in traffic flows since 2019 as a result of the impact of the COVID-19 pandemic on travel patterns. However, it is still appropriate to apply the model adjustment factors derived for 2019 to modelled estimates of total annual mean NO<sub>2</sub> in 2027, and this can be considered a conservative approach. In any case, the Scheme does not have an overall significant adverse effect on air quality.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p><i>'Not relevant to TBC but interesting observations of the current period. The annual mean at 16N in TBC has reduced by 25.5% 2019- 2022 reflecting the above.'</i></p>	
<p><b>Q5.0.15</b></p>	<p><b>Funding</b></p> <p>(i) To respond to sub-question (i), plans on an Ordnance Survey base have been produced for each of the JCS allocations. Each plan shows the extent of the relevant JCS allocation, the red line boundaries for the current planning applications associated with the relevant JCS allocation and types of the planning applications. Planning applications shown on the plans are numbered which should be read in conjunction with the two tables submitted for responding to Q5.0.15(ii). The plans are submitted in a separate document titled 'Joint Councils Response to ExQ1 Q5.0.15(i)'. To respond to sub-questions (ii) (a), (b), (c) and (d), two tables have been produced to set out the details of current residential and commercial planning applications associated with the JCS allocations respectively. The following information is included in the tables:</p> <ul style="list-style-type: none"> <li>• The types of the planning applications, planning application references and description of development;</li> <li>• Number of dwellings (the table on residential planning applications only);</li> <li>• The status of the applications;</li> <li>• The likely time frame for determination, if the applications are yet to be determined; and</li> <li>• Details of any approved S106 and their relevance to the Scheme, if the applications have been approved.</li> </ul> <p>(ii) The two tables should be read in conjunction with the plans submitted for responding to Q5.0.15(i). The tables are</p>	<p>The Applicant has submitted a Technical Note at Deadline 4 (TR010063/APP/9.65). The Technical note provides a fuller response to that provided by the Applicant at D3 and sets out the basis of the applications and allocations that have been considered within the cumulative effects assessment for the Scheme.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>submitted in two separate documents titled 'Joint Councils Response to ExQ1 Q5.0.15(ii) – Employment Allocation Data' and 'Joint Councils Response to ExQ1 Q5.0.15(ii) – Residential Allocation Data'.</p>	
<b>6.</b>	<b>Draft Development Consent Order (DCO)</b>	
<b>Q6.0.4</b>	<p><b>Article 7 – Planning Permission</b></p> <p>The Joint Councils recognise that the drafting of Article 7 (1) is wording used in previous DCOs to provide clarification and reassurance that following the coming into force of an Order, any future planning permission granted under TCPA 1990 within its Order limits, which is not required for the use or operation of that DCO, will not breach the terms of its Order.</p> <p>However, the Joint Councils have concerns that the further drafting at Article 7 (2) &amp; (3), which seeks to deal with the risk of inconsistency and incompatibility issues emerging from the Hillside case; seeks to constrain the planning enforcement powers of the Joint Council's LPAs, in them not being able to take planning enforcement action in the circumstances laid out in this Article. The Joint Councils consider that is not possible for a DCO Article to constrain the LPAs planning enforcement or decision-making powers in such a way, and its inclusion in a DCO is not vires. Therefore, the drafting of Article 7 (2) &amp; (3) should be deleted.</p> <p>It also noted that the drafting within Article 7 is based on that proposed by the Promoter within the Lower Thames Crossing DCO, which has not yet been determined by the Secretary of State and therefore cannot be relied upon as a precedent.</p>	<p>The Applicant would note that it is not a requirement for a proposed article in a dDCO to have precedent in other granted dDCOs. A DCO is considered on its own merit. This isn't to say that examples are not useful to provide overall context to the proposed wording and whether that falls within accepted norms or not. The drafting in this area is a newly developing area and as such there is not a general industry consensus for how to deal with this issue. The Applicant would highlight other live applications such as the Five Estuaries Offshore Wind Farm dDCO are proposing some form of this wording having the same purpose and effect. Other made DCOs, including made orders such as the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 have already secured wording to the same effect. The Applicant has utilised the wording proposed in the Lower Thames Crossing due to the application being in a relevant sector.</p> <p>The Applicant appreciates the concerns of the Joint Councils regarding the constraints imposed over enforcement. The Applicant is not clear on the basis of the claim that the approach proposed is ultra vires. Section 120(5) of the Planning Act 2008 provides that a DCO may disapply statutory provisions, subject to the other provisions in Chapter 1 of Part 7 of that Act. Section 150 allows for the removal of a requirement for prescribed consent or authorisation only if the relevant body has consented to the inclusion of the provision within the DCO. The prescribed consents in England are set out in Paragraph 1 of Schedule 2 to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. Where a consent or authorisation is not prescribed for the purposes of section</p>

ExAQ No.	Interested Parties Response	Applicant Response
		<p>150, the relevant statutory provisions can be disapplied without consent from the relevant regulatory body (pursuant to section 120). The Applicant is not aware of any other restriction within the relevant chapter of the Planning Act 2008 (i.e. Chapter 1 of Part 7) which otherwise restricts the application of section 120. In relation to England, Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 does not include reference to the Town and Country Planning Act 1990, Part VII of which contains the relevant provisions relating to enforcement which the Joint Councils in their capacity as local planning authorities would rely on.</p> <p>The Applicant provided a summary as to the overall purpose of its wording in its response at Deadline 3 to ExQ1s at 6.0.4 [REP3-043]</p>
<p><b>Q6.0.9</b></p>	<p><b>Article 41 Defence to proceedings in respect of statutory nuisance</b></p> <p>The (exception) included with the DCO drafting in relation to the defence to proceedings in respect of statutory nuisance, should be limited only to works associated the construction. It is unreasonable for the defence to apply to ongoing use and maintenance works. The use and consequential works should not impose on the local community be planned, consulted in the local community and come within normal statutory works regarding road and associated measures. For amended drafting please refer below.</p> <p>Defence to proceedings in respect of statutory nuisance</p> <p>41. —(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph (d), (fb), (g) or (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—</p>	<p>The Applicant would highlight that its proposed wording is aligned with that of other recently granted highways DCOs. This includes:</p> <ul style="list-style-type: none"> <li>- Article 44, A417 Missing Link Development Consent Order 2022</li> <li>- Article 44, A47/A11 Thickthorn Junction Development Consent Order 2022</li> <li>- Article 42, A47 Blofield to North Burlingham Development Consent Order 2022</li> <li>- Article 40, A57 Link Roads Development Consent Order 2022</li> <li>- Article 43, A47 Wansford to Sutton Development Consent Order 2023</li> <li>- Article 50, A12 Chelmsford to A120 Widening Development Consent Order 2024</li> <li>- Article 44, M3 Junction 9 Development Consent Order 2024</li> </ul>



ExAQ No.	Interested Parties Response	Applicant Response
	<p>(a) the defendant shows that the nuisance—</p> <p>(i) relates to premises used by the undertaker for the purposes of or in connection with the construction <b>or maintenance</b> of the authorised development and that the nuisance is attributable to the <b>carrying out construction</b> of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(b); or</p> <p>(ii) is a consequence of the construction <b>or maintenance</b> of the authorised development and that it cannot reasonably be avoided. or</p> <p><del>(iii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.</del></p> <p>(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction <b>or maintenance</b> of the authorised development.</p>	<p>The Applicant considers that this level of consensus among recently granted DCOs is likely as a result of the article being substantially based on article 7 of the model provisions contained at Schedule 1 of the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009.</p> <p>The Applicant therefore does not agree with the Joint Council's assessment that is position is unreasonable, given the widely documented examples where previously it had been decided that was appropriate.</p>
<p><b>9. Heritage</b></p>		
<p><b>Q9.0.1</b></p>	<p><b>Archaeology</b></p> <p>The AMP is currently awaiting information from geophysical survey and trial trenching once this information is received the AMP can be updated. However, as it stands it does not contain sufficient information to necessary to mitigate archaeological deposits within areas that have not seen evaluation to date.</p>	<p>The Applicant has undertaken geophysical survey and trial trenching along the length of the Link Road. Further geophysical survey work across other areas impacted by the Scheme (and that are not already developed) is scheduled to be undertaken from Autumn 2024. Further trial trenching will then be undertaken if required.</p> <p>The Applicant considers that the archaeology of the surrounding area can be classified as being well understood due to the amount of previous archaeological work on other nearby schemes and developments, as well as the assessment and evaluation work undertaken for this Scheme.</p>



ExAQ No.	Interested Parties Response	Applicant Response
		<p>Whilst the Applicant agrees with the Joint Councils that further geophysical survey work is required, and will be undertaken, the results of the geophysical survey are not expected to change the overall assessment of impact and effect identified in the ES and are therefore not required for the DCO Examination. The Applicant has agreed with the Joint Councils that the further geophysical survey results would be required to identify and refine mitigation measures but should not be considered necessary to determining consent.</p> <p>Professional judgement plays an important part in understanding archaeological risk (with or without evaluation). Based on the good understanding of the general level and type(s) of the archaeological resource around the Scheme, professional judgement indicates that although there is a relatively high potential for hitherto unidentified archaeology to be present within the un-evaluated areas, there is a very low to negligible probability of any such unidentified archaeology being of such significance to preclude it being appropriately mitigated through preservation by record according to the principles outlined within the AMP [AS-038].</p> <p>The next update of the AMP will be the 2<sup>nd</sup> iteration of the document produced by the Principal Contractor in advance of construction. This will include further information on geophysical survey locations and plans.</p>
<p><b>Q9.0.3</b></p>	<p><b>Archaeological Management Plan</b></p> <p>Once the outstanding information has been received the AMP can be updated and further works agreed with the appropriate Joint Councils' members. However, it is understood that the GCC Archaeologist is about to retire, the replacement post is being advertised.</p>	<p>The next update of the AMP will be the 2<sup>nd</sup> iteration of the document produced by the Principal Contractor in advance of construction. This will include further information on geophysical survey locations and plans.</p>
<p><b>Q9.0.4</b></p>	<p><b>Archaeological Management Plan</b></p>	<p>The Applicant can confirm that the EMP will be updated as EMP 2<sup>nd</sup> iteration which includes update to the Annex B AMP. The Joint Councils will be consulted on the 2<sup>nd</sup> iteration EMP and Annex B AMP.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	As the AMP is currently based on incomplete data such an assurance cannot be reached until the AMP is updated.	
<b>Q9.0.5</b>	<p><b>Archaeological Management Plan</b></p> <p>Yes, this is the desired approach undertaken as part of archaeological work detailed within the AMP. However, the AMP is awaiting new information that may impact this assumption.</p>	<p>The Applicant would like to draw attention to the fact that professional judgement plays an important part in understanding archaeological risk (with or without evaluation). Based on the good understanding of the general level and type(s) of the archaeological resource around the Scheme, professional judgement indicates that although there is a relatively high potential for hitherto unidentified archaeology to be present within the un-evaluated areas, there is a very low to negligible probability of any such unidentified archaeology being of such significance to preclude it being appropriately mitigated through preservation by record according to the principles outlined within the AMP.</p>
<b>Q15.0.1</b>	<p><b>Traffic Management Plan (TMP)</b></p> <p>(ii) The Joint Councils and GCC (as Highway Authority) have reviewed the 1st iteration of the TMP, and in its current form, it does not contain sufficient detail to be effective, there is a lot of detailed information that will need to be provided by the Applicant in the 2nd iteration to ensure its effectiveness as a TMP. For example there is no specific detail on the following:</p> <ul style="list-style-type: none"> <li>• Description of the works</li> <li>• Proposed speed restrictions</li> <li>• What traffic management phasing will be required including estimated durations and anticipated carriageway and slip road closures</li> <li>• No detail on the Bank Holiday and TM embargoes are required, including the Cheltenham Festival in March</li> <li>• Lack of diversion route drawings for specific closures</li> </ul>	<p>The Joint Councils in their role as local planning authorities will be consulted on the second iteration of the TMP as secured by requirement 3 of the dDCO. The dDCO does not secure the requirement of the Joint Council's approval of the TMP. The second iteration environmental management plan will, as per changes introduced at Deadline 4, be approved by the Secretary of State.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<ul style="list-style-type: none"> <li>• Information about network occupancy requirements for GCC or National Highways               <ul style="list-style-type: none"> <li>- Including co-ordination of network availability for other parties</li> </ul> </li> <li>• Key customers and stakeholders effected by the scheme</li> </ul> <p>This missing detail has been highlighted and discussed with the Applicant who have responded by stating that much more detailed information will be included in the 2nd iteration of the TMP, once the construction programme has been determined. The Joint Councils have been informed that the 2nd iteration of the TMP will not be available during Examination, however we are happy with this approach and will continue to work with the Applicant and their ECI Contractor post Examination to further develop the TMP to a suitably acceptable state to enable it to work prior to construction and implementation.</p> <p>The Joint Councils would request that they be consulted for all further iterations of the TMP as it develops beyond Examination. They would also require that they be a signatory for the TMP.</p>	
<p><b>Q15.0.3</b></p>	<p><b>Modelling of Construction Traffic</b></p> <p>(iii) Gloucestershire County Council (Highway Authority) are happy that the approach taken is acceptable, subject to the detailed response provided in relation to 15.0.1 and therefore will be managed accordingly. It is accepted that both re-routing and demand will fundamentally change route choice during this time. There will be many and various stages to the construction, and it will be necessary to continually monitor and review the network during this period. This will need to be done in collaboration with all parties as per the response to 15.0.1.</p>	<p>The signposted diversion routes to be used during the temporary closures of the north-facing M5 Junction 10 slip roads are the same as those used by National Highways when maintenance works are required to the M5 or when incidents occur on the M5 necessitating temporary closures of sections of the M5. Therefore, the temporary diversion routes are well established and agreed by both National Highways (as Highway Authority for the Strategic Road Network) and Gloucester County Council (as Highway Authority for the local road network). Consequently, the Applicant does not consider it necessary to monitor the temporary impacts of the temporary diversion of traffic during closures of the M5 Junction 10 slip roads, since these are well</p>

ExAQ No.	Interested Parties Response	Applicant Response
		<p>understood and have previously been considered by the Highway Authorities when determining the most appropriate temporary diversion routes. The Applicant does not consider it proportionate, due to the scale and cost, to monitor the wider network for use by diverted traffic as a result of construction.</p>
<p><b>Q15.0.9</b></p>	<p><b>Transport Modelling</b></p> <p>The Joint Councils fully support the scheme subject to further information on the relationship between mode choice and the junction assessment, as per ongoing discussions related to the Transport Assessment. The 'need' is clear when presented with the development master plans and mode choices available. The Joint Councils have requested an additional chapter within the ES to pull together all the relevant information in a coherent and logical way which would inform all other elements of the ES, CA and assist the ExA in reporting to the SoS. The Joint Councils continue to review the additional supplementary information being provided by the applicant for the Transport Assessment.</p>	<p>The Applicant has submitted additional information regarding potential public transport and active modes interventions considered during development of the Scheme which is presented in the Multimodal Study (REP3-053).</p> <p>The Applicant considers that all information regarding the assessment of the Scheme is reported in a clear and appropriate way in the documents submitted in support of the dDCO, including within the ES. The Applicant does not consider it necessary nor appropriate to duplicate this information in an additional chapter within the ES. In addition, the Scoping Opinion received (Appendix 1.2 of the ES APP-076), scoped out transport from the EIA</p> <p>The Applicant is in discussions with the Joint Councils to prepare a plan at that shows all the enhanced facilities incorporated into the Scheme for active modes of transport and how these connect in with the wider network of facilities. This will be submitted at an agreed deadline into the Examination.</p>

## 2.3. Environment Agency [REP3-070]

Response Reference	Relevant Representation Issue	Applicant Response
<b>16.</b>	<b>Water Environment – Flood Risk, Water Quality and Resources</b>	
<b>Q16.0.3</b>	<p><b>Flood Risk</b></p> <p>The Environment Agency cannot confirm this at present as we have not seen the detail. However, item WE15 in the REAC [REP1-030] commits the applicant to assessing the impacts of both the final permanent and temporary works within the flood plain of the River Chelt through detailed modelling to ensure appropriate flood plain compensation measures are constructed to mitigate impacts.</p> <p>To date hydraulic modelling has identified the need for compensation and the likely volumes required which has been initially reviewed. However, until final designs are submitted the specific detail of any compensatory storage areas cannot be confirmed.</p> <p>The EA will be consulted on the construction phase post DCO as outlined in the REAC [REP1-030] and will have the opportunity to review the construction phase proposals and associated modelling to ensure construction phase effects are mitigated.</p>	<p>The Environment Agency will be consulted on the detailed flood risk at the construction stage as set out in item WE15 of the REAC (REP3 - 031). Furthermore, in the DCO (REP3-011), Requirement 13, requires the Environment Agency to approve the detailed scheme for the flood compensation areas.</p>
<b>Q16.0.7</b>	<p><b>Flood risk assessment – construction phase and Flood Risk Activity Permits</b></p> <p>i) At present no Flood Risk Activity Permits (FRAPS) have been issued for either the temporary or permanent works. The Environment Agency advise that applications for FRAPS should not be made until planning permission has been secured as this is the primary legislation in such instances to minimise unnecessary work for both the applicant and the regulator.</p>	<p>(v) Item WE15 in the REAC has been updated (in version REP3-031) to state that the construction stage arrangements will be tested through hydraulic flood modelling, using the latest available versions of the software, to demonstrate compliance with the FRA (AS-023).</p>

Response Reference	Relevant Representation Issue	Applicant Response
	<p>Until a detailed design for the permanent works has been granted planning permission, it is advised that a FRAP application for any structures requiring permission is not sought.</p> <p>ii) Without the final design or appointed contractor, it is not possible to undertake a site-specific construction FRA.</p> <p>iii) The Flood Risk Activity Permit is not the appropriate mechanism for assessing risk for the construction phase as this only applies to areas within 8 metres of the watercourse. Construction phase flood risk will be assessed via the commitments made within the REAC [REP1-030] document and are secured through requirement 3 of the dDCO (REP1-004)</p> <p>iv) This is a matter for the applicant, contractor, and EA to agree. As a contractor has not been appointed the EA consider that siting of compounds should be like all other flood matters, where possible, take a sequential approach. We would advise against siting any compounds or temporary storage of material within Flood Zone 3b (the functional flood plain). Where it is not viable to avoid locating compounds in Flood Zone 3a (High Risk), then appropriate mitigation measures will be sought to minimise impacts to both the works themselves and third parties.</p> <p>v) It may not be reasonable to rely on the ongoing floodplain compensation unless it can be demonstrated through hydraulic modelling that it offsets the risk from the construction phase activities. If the ongoing compensation is found not to be suitable to offset the increased risk, then other mitigation measures need to be explored. We recommend the wording in WE15 of the REAC [REP1-030] is updated to allow flexibility in the event that the ongoing floodplain compensation is found to be unsuitable to offset the risk from the construction phase activities.</p>	

Response Reference	Relevant Representation Issue	Applicant Response
	vi) None. The construction phase is fully dependent on the submission of final detailed designs and the appointment of a contractor. Hence whilst the impact of the permanent structures can be satisfactorily covered by planning legislation.	



## 2.4. Historic England [REP3-072]

Response Reference	Interested Parties Response	Applicant Response
<b>Archaeological Management Plan (AMP)</b>		
<b>Q.9.04</b>	<p>We have not yet seen a revised version of the AMP to know if our comments and those of the County Archaeologist have been incorporated. We understand this will be submitted at Deadline 4. We would expect to see more detail on the mitigation areas and where excavation, evaluation and watching brief/ Strip Map Record areas will be. These will need to be agreed with the County Archaeologist.</p> <p>When the AMP and wording of Requirement 9 have been agreed with us and the County Archaeologist then yes this will be an appropriate approach to signing off the heritage matters.</p>	<p>Following discussion with the County Archaeologist and the Joint Councils through the SoCG process, it was agreed that whilst further geophysical survey work is required, and will be undertaken, the information from this survey work is not required for the DCO Examination. The geophysical survey results from the further survey work would be required to identify and refine mitigation measures but should not be considered necessary to determining consent.</p> <p>The assessments undertaken to date (as reported in the ES Cultural Heritage chapter [APP-070]), alongside the processes set out in the AMP [AS-038] covering the further investigations to be undertaken and the management measures to be implemented to mitigate the impacts of the Scheme on as yet unknown archaeological remains, provide a sufficient level of information and mitigation for the DCO.</p> <p>The next update of the AMP will be the 2nd iteration, which will be produced in advance of construction. This 2nd iteration will contain the information on survey locations and plans.</p> <p>The Applicant has updated the wording of Requirement 9 to align with comments received from Historic England. The Applicant would note that further change to Requirement 9 at Deadline 4 has been made but which does not change the overall interpretation or protection provided in Schedule 2 of the dDCO as a whole. Previously there had been a repetition of restriction and commitment between Requirement 3 and Requirement 9, both of which required that no part of the authorised development was to commence until for that part an archaeological management plan was in effect. The amendment made ensures that the restriction against implementation remains solely expressed in Requirement 3 alongside the other environmental</p>

<b>Response Reference</b>	<b>Interested Parties Response</b>	<b>Applicant Response</b>
		management plans with Requirement 9 introducing specific requirements and controls for that management plan which have been discussed with Historic England.

## 2.5. National Highways Limited [REP3-075]

Response Reference	Relevant Representation Issue	Applicant Response
Q1.0.1	<p><b>Highways Extents – part ii and v only</b></p> <p>National Highways do not believe that it will be possible at this time to provide anything more than an indicative plan of the extent of the SRN (and LRN, where it intersects) at completion of the Scheme. Until detailed design is complete and ground assessments have taken place there is significant margin for change in precise boundaries, especially relating to drainage.</p> <p>In response to the question of including an appropriate mechanism to determine the precise boundaries of the network in due course, National Highways suggest a collaborative approach with the Applicant as undertaker and Gloucestershire County Council (GCC) as highway authority for the LRN. The process to be followed would include regular project/technical team meetings to agree final plans. Fallback dispute resolution provisions would be included in the event that agreement cannot be reached in a timely manner, with a final reference to the Secretary of State for Transport to make a decision if expert determination did not resolve matters. In terms of securing this mechanism, it can be documented between the parties and listed as a Schedule 10 document to be certified, with an addition to [Article 13] of the DCO.</p> <p>National Highways suggested drafting:</p> <p>13(9) The extent and boundaries of a special road or a trunk road to be constructed under this Order, together with any other land, asset or feature to be transferred to or adopted by the strategic highway authority will be determined by the procedure set out in the [final road network agreement process] and will be shown on a plan to be certified by the Secretary of State once agreed in accordance with that process.</p>	<p>The Applicant agrees with National Highways that the precise extent of the SRN cannot be determined until detailed design. The Applicant's position is that the mechanism for agreeing the precise extent and assets which are to form part of the SRN is being negotiated as part of a separate side agreement.</p> <p>In the event that the side agreement is not agreed during examination, the Applicant has the following comments regarding the drafting proposed by National Highways.</p> <p>Under article 13(2) and 13(3), where a special road or trunk road is constructed, altered or diverted, then the work must be completed to the reasonable satisfaction of National Highways and unless otherwise agreed with National Highways, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of National Highways. The Applicant considers that this default position in the dDCO to be reasonable, as the alternative would see the default position as a local highway authority being responsible for a special road or trunk road. The position which the Applicant understands is under consideration between the parties, is not in relation to the maintenance of the mainline of a trunk road or special road, the extents of which are set out in Part 1 of Schedule 3 of the Order, but rather whether supporting infrastructure, such as culverts, drainage features, cabling etc. falls within the SRN or the local road network.</p> <p>Regarding 13(9): the drafting of this article is inconsistent with Article 14(2) which sets out the extent of the special roads and the appropriate trigger from which those roads are to be maintained by National Highways. The drafting as suggested also allows for discussion as to the maintenance obligations over the mainline of the relevant highways which the Applicant understands is not up for debate. Secondly, it is not</p>

Response Reference	Relevant Representation Issue	Applicant Response
	<p>13(10) Notwithstanding any other provision of this Order, no transfer to or adoption by the strategic highway authority of a special road or trunk road or other land, asset or feature shall take place until such time as the plan required by the [final road network agreement process] has been certified.</p> <p>New definition – ["final road network agreement process"] means the document listed in Schedule 10 (documents to be certified) and certified by the Secretary of State as the process to be followed between the undertaker and the strategic highway authority to determine the limits and extent of the strategic highway network upon completion of the works for the purposes of this Order.</p> <p>Given National Highways does not believe that any plan showing the extent of the post-completion network produced at this stage would be sufficiently final and precise, any plan submitted at this stage should not be a certified document. However, as set out above, the final plan that is agreed between National Highways and the Applicant should be certified in due course.</p>	<p>clear how the undertaker of the Order will liaise with the Secretary of State to certify a document which was not before the panel in examination which is suggested through the certification of the "plan" referred to and this would not seem to be in accordance with paragraph 11.2 of Advice Note 15.</p> <p>Proposed Requirement 13(10) has similar concerns in that it suggests that National Highways could refuse to maintain a road classified by the Order as a special or trunk road on the basis that final agreement of specific assets is not agreed. This is not appropriate, and the Applicant does not recognise that this is the true position between the parties. In addition, the wording "transfer to or adoption by" is inaccurate against the operation of Article 13(2) which details that from completion of the works the road is to be maintained by National Highways, there is therefore no transfer to or adoption by, rather the dDCO imposes that responsibility on National Highways.</p> <p>Lastly, the Applicant has not seen from National Highways a "final road network agreement process" and is not in the process of negotiating such an agreement for the purpose of certification. Therefore, the Applicant is not able to agree to the addition of this wording absent the principal document the operative articles refer to.</p>
<p><b>Q1.2.1</b></p>	<p><b>Safeguarded Land</b></p> <p>Policy SD5 (7.i) is clear that the safeguarded areas "are not allocated for development at the present time" and that "permission for the permanent development of safeguarded land (except for uses that would not be deemed inappropriate within the Green Belt) will only be granted if a future review of the JCS deems the release of this land necessary and appropriate and proposes the development".</p> <p>Accordingly, National Highways considers that it would be more appropriate to say that the safeguarded land does not currently generate a 'need' as it is not allocated for development.</p>	<p>As outlined in the Applicant's response to the Examining Authority's First Written Questions at Deadline 3 (REP3-043) the Applicant's position is that it is appropriate to say that the safeguarded land does not generate an immediate need, however, the Scheme provides enough capacity for the additional traffic associated with the safeguarded land as well as A4 and A7. This is on the basis that the Scheme's 2042 design year looks beyond the plan term of the JCS (2031).</p>

Response Reference	Relevant Representation Issue	Applicant Response
Q1.2.2	<p><b>Need</b></p> <p>National Highways' understanding is that an assessment has not been undertaken by the Applicant which considers the improvements to the M5 J10 without the dependant development and without the Associated Development so National Highways are unable to comment on this. National Highways has not carried out such an assessment and is not in a position to do so.</p>	<p>No response required in addition to Applicant's response to this ExA question provided in REP3-043.</p>
Q1.3.1	<p><b>Alternatives</b></p> <p>National Highways' understanding is that an assessment has not been undertaken by the Applicant which considers partial improvements to the M5 J10 so National Highways are unable to comment on this. It is therefore not clear as to whether the LRN or the SRN can operate with just the SRN (M5 J10 improvement work) element of the scheme. National Highways has not carried out its own assessment and is not in a position to do so.</p>	<p>No response required in addition to Applicant's response to this ExA question provided in REP3-043.</p>
Q15.0.6	<p><b>Transport Modelling</b></p> <p>As set out in National Highways' Relevant Representation dated 22 March 2024 and our most recent PADSS submission (Deadline 3), National Highways do not believe the current SATURN model is sufficient. Through discussions with the Applicant, National Highways understanding is that the Applicant does not propose to update the current SATURN model. Specifically, a number of issues have been identified by National Highways in respect to the TAG compliance of the base model. Amongst these issues is the journey time validation (delay) on the A4019, which is a key route within the model, giving rise to concern that delays on the A4019 may not be representative. The proximity of this route to the scheme, in particular with regards to dualling of the A4019, means that this route is of particular significance. If the A4019 delay issue is taken through into the Do</p>	<p>The Applicant confirms that all base year modelled journey times have been validated against median observed journey times.</p> <p>The validation criteria for traffic modelling are set out in TAG Unit M3.1, Tables 1 to 4. The criteria do not require all individual elements of the base model to pass the applicable criterion, but instead defines a minimum proportion of elements that need to pass to demonstrate that a traffic model adequately validates against observed data. For journey time validation the TAG criterion is that more than 85% of modelled journey time routes should be within 15% of surveyed times (or 1 minute, if higher than 15%).</p> <p>The base year traffic model used for the assessment of the Scheme meets all the TAG validation criteria, including that for journey time</p>

Response Reference	Relevant Representation Issue	Applicant Response
	<p>Minimum and then compared to a Do Something that removes the delay – there will be an imbalance and inaccuracy in the results, whether one is looking at benefits, or route choice, or just at delays to development traffic. This is an example of one issue; further concerns have been raised directly to the Applicant.</p> <p>A suggestion on how these issues could be resolved is for the Applicant to undertake updates at the earliest opportunity, leading to a TAG compliant solution. This may not be completed during the examination period due to the potential duration of the work (which may include modelling and review), but National Highways are hopeful that a TAG compliant model could be provided by the Applicant during examination if the work were to commence promptly. National Highways will engage with the Applicant to seek a resolution and provide an update to the ExA by Deadline 5 as to the means and timeline to resolve any outstanding matters.</p>	<p>routes, as presented in Section 18 of the Transport Model Package Report (APP-140).</p> <p>At least 94% of journey time routes in the base year model pass the TAG validation criteria, which exceeds the minimum proportion of 85% required by TAG.</p> <p>The two journey time routes along the A4019 meet the TAG validation criteria in the eastbound direction, but marginally exceed the criteria in the westbound direction by between 0.9% and 9.4% depending on the period modelled.</p> <p>Furthermore, competing or alternative routes to the two routes in question along the A4019 fully validate in the base year model against observed journey times in full compliance with TAG criteria. This indicates that the marginal exceedance of the TAG validation criteria for the two modelled westbound journey times is very unlikely to materially influence route choice and thus, the assignment of modelled traffic flows.</p> <p>Consequently, the Applicant considers the traffic modelling undertaken to assess the Scheme to be robust and that the fact that the two journey time routes in the westbound direction along the A4019 marginally exceed the TAG validation criteria does not undermine the validity of the traffic modelling outputs, including route choice, and the conclusions drawn from them.</p> <p>Nonetheless, the Applicant is undertaking a traffic modelling sensitivity test with pertinent parameters adjusted such that the westbound journey times routes along the A4019 meet the TAG validation criteria to understand if this would result in a material difference to the reported traffic modelling outputs. The findings of the sensitivity test will be reported at Deadline 5..</p> <p>It is worth noting that responses to all issues raised in review of the SATURN model have been provided to National Highways and National</p>

Response Reference	Relevant Representation Issue	Applicant Response
		<p>Highways stated at ISH3 (agenda item XX) that “... overall, the majority of concerns raised by national highways previously have either now been resolved or the additional evidence provided by the applicant has demonstrated to our satisfaction the model is adequate or that no further information is available which could be used to improve the model for the assessment of the scheme proposed in relation to Saturn, there is one tag compliance issue that remains to be addressed to national highway satisfaction, and that's of. Journey times along the a 4019, this is a redirect impacted by the scheme, and it's considered that further effort to ensure the base model is capable of replicating observations is a reasonable request of the applicant.” (taken from ISH 3 transcript). Therefore, the Applicant understands this is the final remaining issue to the SATURN model.</p>
<p><b>Q15.0.7</b></p>	<p><b>Transport Modelling</b></p> <p>As set out in National Highways Relevant Representation dated 22 March 2024 and our most recent PADSS submission (Deadline 3), National Highways do not believe the current traffic modelling is sufficient. Our initial assessments show that the PARAMICS model seems to be sufficient in isolation, it cannot be fully supported as it is fed by the SATURN model which we do not support at this stage. Changes to the SATURN model would feed through into the PARAMICS model which we would then need to further assess. Through discussions with the Applicant, National Highways understanding is that the Applicant does not propose to update the current SATURN model.</p> <p>A suggestion on how these issues could be resolved is for the Applicant to undertake updates at the earliest opportunity, leading to a TAG compliant solution. This may not be completed during the examination period due to the potential duration of the work (which may include modelling and review), but National Highways are hopeful that a TAG compliant model could be provided by the</p>	<p>Please refer to the Applicant’s response to Q15.0.6 above.</p>



Response Reference	Relevant Representation Issue	Applicant Response
	Applicant during examination if the work were to commence promptly. National Highways will engage with the Applicant to seek a resolution and provide an update to the ExA by Deadline 5 as to the means and timeline to resolve any outstanding matters.	
<b>Q15.0.9</b>	Transport Modelling The modelling informs all of the aspects listed in the question posed by the ExA. National Highways cannot provide a definitive comment on the impact of traffic dependent aspects until such time as the Applicant provides a TAG compliant solution.	The base year traffic model used for the assessment of the Scheme meets all the TAG validation criteria as presented in Section 18 of the Transport Model Package Report (APP-140).

## 2.6. Natural England [REP3-076]

Response Reference	Interested Party Response to ExA	Applicant Response
Q 3.0.2.	<p><b>Biodiversity Net Gain (BNG)</b>  <b>Para 7.4.65 to 7.4.71 of ES Chapter 7 [APP-066]</b></p> <p>The survey to inform the BNG calculations were conducted in May and June 2022. At this time version 3 of the metric was in force. It appears that the surveys were conducted in a way to be consistent with version 3 of the metric. In these circumstances, and taking into consideration that NSIPs are not obliged to deliver net gain, this action is acceptable. Having said that, if it was possible to update the calculations as an entirely desk-based exercise (i.e. without requiring further survey effort) this information would be helpful. Later versions of the metric are more accurate, but are not necessarily more stringent, so the final value could go up or down.</p>	<p>The Applicant is pleased that Natural England consider use of Metric 3.0 acceptable. The Applicant has undertaken an exercise whereby areas have been entered into the Statutory biodiversity metric, to be provided for information and not to replace the calculation using Metric 3.0. This metric, and an accompanying technical note/report is submitted at Deadline 4 (TR010063/APP/9.71).</p>
Q 3.1.4.	<p><b>Stage 1 screening - Coombe Hill SSSI (Severn Estuary sites)</b></p> <p>The Trust are concerned about two things. Firstly, the road improvement scheme is unlocking new housing near the canal. Secondly, journey times to the canal could be reduced. They are concerned that both of these things could lead to increased recreational pressure on the canal, which is functionally linked to the Severn Estuary.</p> <p>On their first concern, they are correct that the scheme is unlocking new housing development. However the applications for these housing developments will be subject to their own HRAs, and planning permission cannot be granted unless these developments can rule out an adverse effect on the integrity of the Severn Estuary. It is not reasonable to expect the HRA of the road improvement scheme to assess of the development sites that will be unlocked as</p>	<p>Part of Natural England's response to the ExA's first written question 3.1.4 relates to a concern raised by the Gloucestershire Wildlife Trust (GWT) that the Scheme could result in increased accessibility of the Coombe Hill Canal SSSI. The Applicant also responded to the ExA's first written question 3.1.4 (refer to question 3.1.4 in REP3-043). The Applicant has the following to add in response to Natural England's response.</p> <p>The Applicant considers that improving the road infrastructure as the Scheme proposes would not facilitate access to the SSSI, that this is not a credible impact pathway and that no further investigation into this is necessary. The Scheme does not provide direct access to the SSSI, which is located almost 2 km northwest of Junction 10. The existing M5 Junction 10 already provides access and egress to and from the M5 north, with no connectivity to the M5 south. It is this southern connectivity that will be improved as a result of the Scheme, which will</p>

Response Reference	Interested Party Response to ExA	Applicant Response
	<p>so little information about these development sites is known at present.</p> <p>Their second concern is more relevant as they are suggesting there may be a direct link between the road improvement scheme and reduced journey times to the canal, which may cause more people to visit. As far as we are aware this was not considered by the applicant. A level of investigation into this may be helpful and the Trust may be able to assist with this as we understand they have conducted visitor surveys which provide information on where people who visit the canal live. However our initial view is that the road improvement scheme is unlikely to increase visitor pressure because its main effect will be to reduce bottlenecks during rush-hour, rather than deliver considerable reductions in journey times</p>	<p>help to alleviate congestion across Cheltenham, as well as facilitate the planned housing development around the junction-</p> <p>The planned housing development around the junction and potential increased recreational pressure as a result of the combined housing developments has been fully considered within the HRA Screening (REP3-025). The Screening report concluded no Likely Significant Effect on the basis that any potential increase in recreational pressure will come from an increase in housing, which the Scheme will facilitate but will not cause. The potential in-combination effects of the combined housing developments around the junction, and within the wider area, are known, and there are already existing policy requirements in place at a strategic level (within the Joint Core Strategy and the Tewkesbury Borough Plan) that have been designed specifically to mitigate the potential in-combination recreational effects of the combined housing developments, and which must be met by the housing developments if planning permission is granted. The housing developments will be subject to their own planning applications and assessments where this will be set out in more detail.</p>
<p><b>Q 3.1.12.</b></p>	<p><b>River Chelt Mitigation Strategy</b></p> <p>Please accept our apologies if this has caused confusion. This was not intended to be a reference to a stand-alone document. Rather, it was a request that all of the mitigation for the River Chelt, as outlined in the HRA, should be secured in the DCO in the most appropriate manner.</p>	<p>The mitigation measures described in the HRA for the River Chelt are secured as embedded design features (and detailed in the Environmental Masterplans ref REP3-009 and REP3-010) or as items within the Environmental Masterplan (ref AS-025) and the REAC (ref REP3-031). The Applicant considers this is appropriately secured via requirement 11 of the dDCO.</p>

## 2.7. Gowling on behalf of Bloors and Persimmon [REP3-077]

Response Reference	Interested Parties Response	Applicant Response
<b>Funding</b>		
<b>Q5.0.16</b>	<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 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>-----</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>(iii)</p> <p>Elms Park:</p> <p>The NPPF requirement is that the residual cumulative impact of development must not be 'severe'. The planning application</p>	<p>(i) GCC HDM has been consulting on a contribution methodology, which has been developed in line with the s122 CIL tests, and the resultant contribution amount since September 2023. That consultation closed in May 2024 and GCC responded to developers in a meeting on 18/07/24 and 21/08/24. The methodology is still to be agreed.</p> <p>(ii) N/A</p> <p>(i) Please see the Applicant's Technical Notes in relation to the Scheme's need case (TR010063/APP/9.74) and funding methodology (TR010063/APP/9.75), submitted at Deadline 4.</p>

Response Reference	Interested Parties Response	Applicant Response
	<p>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>	

Response Reference	Interested Parties Response	Applicant Response
	<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>	
<p><b>Q5.0.17</b></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>-----</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>	<p>(i) The letters submitted at D3 would not suggest a fundamental disagreement with the entire premise of the funding shortfall. The modelling methodology is presently being refined to reflect the various issues raised by the developers with interest in sites around M5 J10. The next iteration will be in September 2024.</p> <p>Please see the Applicant's Technical Notes in relation to the Scheme's need case (TR010063/APP/9.74) and funding (TR010063/APP/9.75), submitted at Deadline 4.</p> <p>(ii) N/A</p> <p>(iii) GCC HDM has been consulting on a contribution methodology, which has been developed in line with the s122 CIL tests, and the resultant contribution amount since September 2023. That consultation closed in May 2024 and GCC responded to developers in a meeting on 18/07/24 and 21/08/24. The methodology is still to be agreed.</p>
<p><b>Article 7 – Planning Permission</b></p>		

Response Reference	Interested Parties Response	Applicant Response
<p><b>Q6.0.4</b></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>-----</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>	<p>(i) This is also the Applicant's understanding of how the overlap between the two planning applications will operate.</p> <p>The Applicant notes the request to move the access to the Transport Hub. It should be noted that the existing access location was developed in consultation with the developer in advance of submission of the DCO application. The Applicant would welcome further discussion on the merits of the proposed location and will be in contact with the interested party in due course. The Applicant notes the estimated loss of development, absent an approved transport solution in the absence of the M5 J10 Improvements Scheme, it is not possible to determine with any certainty the precise impact on the proposed development.</p>



## 2.8. House in the Tree [REP3-078]

Response Reference	Issue	Applicant Response
<b>Significant Impact on our Business</b>		
<p><b>Q14.0.2</b></p>	<p>This extended disruption had a notable impact on our business. During this time, enforced diversions caused substantial operational challenges. We saw an average 20% decline in turnover within a six-month period. This financial strain led to a reduction in staff hours, resulting in some job losses and a decrease in supplier orders.</p> <p>Looking ahead, the M5 Junction 10 Scheme brings concerns to the operation of our business.</p> <p>The uncertainties surrounding the construction timelines, road closures and diversions pose a significant threat to our trading.</p>	<p>The Applicant is aware of the potential interaction of road closures required to deliver the Scheme and the operations at House in the Tree. Whilst road closures may require alternative routes to be used by customers, access will be maintained to the House in the Tree for customers during construction.</p> <p>As has been raised with Thanks For Popping In Traditional Pubs Limited, the construction programme for the Scheme will be developed during the ongoing detailed design of the Scheme. The Applicant and contractor will continue to engage with Thanks For Popping In Traditional Pubs Limited during the detailed design of the Scheme and programme development, to ensure the detailed traffic management required is understood and consideration is made to the business operations.</p> <p>The Environmental Management Plan Annex B15 - Community Engagement Plan (AS-052) (CEP) secures continual engagement during the detailed design of the Scheme. Paragraph B.15.2.2. specifies that the appointed Public Liaison Officer for the Scheme must 'review the Stakeholder and Engagement Communication Plan developed as part of Detailed Design'.</p> <p>Continual engagement during detailed design is also secured by the Environmental Management Plan Annex B11 - Traffic Management Plan (AS-041) (TMP) in paragraph B.11.2.27. The paragraph states that the 'TMP methodology 'will need to include processes for supporting the activities of the PLO, as set out in the CEP'.</p>
<p><b>Q14.0.2</b></p>	<p>We anticipate further considerable interference with our daily activities which include the works in the grounds of the House in the</p>	<p>The works within in the grounds of House in the Tree are detailed below:</p>

Response Reference	Issue	Applicant Response
	<p>Tree, these being the loss of valuable car parking spaces, removal of hedges, installation of new fencing, damage to the garden including the children's play areas, complete closure with the loss of the beer garden whilst pole &amp; overhead cable works are carried out and disruptions with the installation of a new cycle path.</p> <p>We foresee a reduction in trade and increased operational concerns once construction commences. The combined impact of these disruptions could lead to reduced trading days and hours if roads are closed, resulting in possible redundancies and affecting our local suppliers.</p>	<p><u>Permanent acquisition</u></p> <p>The Applicant is seeking to permanently acquire plot 16/5e(i) (registered Ei Group) - This is a plot with an area of 58 sqm and is proposed to be acquired for: for the realignment of the B4634 connecting to the new West Cheltenham Link Road with shared use path, private access, signage and ducting (work number 6), for the diversion of Severn Trent Water Limited water pipeline (work number 14), the diversion of National Grid Electricity Distribution PLC electric cable and associated apparatus and equipment (work number 25).</p> <p>The Applicant acknowledges that this will have an effect on the parking area at the House in the Tree. To confirm, however, that the 58 sqm affects a potential of 2 car parking spaces out of a car parking area of 2150 sqm, with a total of 95 car parking spaces. The Applicant acknowledges that the Scheme will impact 2% of the available parking at the House in the Tree and will look to identify opportunities to mitigate the impact with Thanks for Popping In Traditional Pubs Limited through continued engagement.</p> <p>The Applicant will agree the permanent boundary treatment between plot 16/5e and 16/5e(i) (that will establish the highway boundary) following completion of the Scheme with the House in the Tree to minimise the impact of the Scheme during construction and operation.</p> <p><u>Temporary possession</u></p> <p>The Applicant is proposing to acquire rights of temporary possession over plots 16/5e (registered Ei Group) which has an area of 95 sqm within the car parking area and plot 16/5b 444 sqm which has a working area within the extended grounds.</p> <p>A further 95 square metres of working space will be required within the parking area as detailed under plot 16/5e. The working space is required to facilitate the realignment of the B4634 connecting to the new West Cheltenham Link Road with shared use path, private access, signage</p>

Response Reference	Issue	Applicant Response
		<p>and ducting, diversion of Severn Trent Water Limited water pipeline, and the diversion of National Grid Electricity Distribution PLC electric cable and associated apparatus and equipment. The Applicant will seek to minimise the period of time in which it is in possession of this area. The Applicant and contractor will continue to engage with the Thanks for Popping In Traditional Pubs Limited when further information regarding the detailed design is available.</p> <p>The temporary possession relating to plot 16/5b is required for the National Grid Electricity Distribution PLC electric cable and associated apparatus and equipment. This extends of 444 square metres of the approximately 1750 square metres of the extended gardens at the House in the Tree. The works to undertake the service transfers are relatively minor and will take considerably less time than the overall construction window. Minimal damage will be done to the garden and if any of the occupier's garden equipment is within the vicinity of the working area this will be moved and resisted following the works. The Applicant and contractor will continue to liaise with Thanks for Popping In Traditional Pubs Limited once the detailed design has progressed and further detail regarding the specific duration of disruption that will result from these works. The seasonal timings of the works and mitigation opportunities will also be incorporated into the continued engagement.</p>

## 2.9. St Modwen and MLPL [REP3-079]

ExAQ No.	Interested Parties Response	Applicant Response
Q.5.0.10	<p>SM&amp;MLPL submitted an outline planning application for the following description of development in October 2022:</p> <p>“Outline planning application for residential development comprising a mixture of market and affordable housing (Use Class C3), which could include retirement/extra care accommodation (Use Class C2/C3), a flexible mixed use area with a community hub (including potentially Use Classes E, F1 and F2), a primary school and children's nursery to include use of sports pitches to provide public recreation space, site clearance and preparation, green infrastructure, walking and cycling routes, formal and informal public open space, sports pitch provision, drainage, and other associated works and infrastructure, including utilities and highways works. All matters reserved except partially for access.”</p> <p>During the post-submission period, changes have been made to the application proposals and a full resubmission including further environmental information under Regulation 25 of the EIA Regulations is to be submitted in August/September 2024. Once consultation on the resubmission has been completed it is hoped that the applications will be determined at both the Tewkesbury and Cheltenham Borough Council meetings at the end of 2024.</p> <p>Following the resolution to grant at the end of 2024, SM&amp;MLPL anticipate the following milestones through to a start on site:</p> <ul style="list-style-type: none"> <li>• Parallel site preparation and infrastructure application approved: Q4 2024</li> <li>• Outline planning permission granted: Q1 2025</li> <li>• Site preparation and infrastructure works commence: Q1 2025</li> </ul>	<p>The Applicant has submitted a Technical Note on Funding at Deadline 4, please see TR010096/APP/9.75.</p>

ExAQ No.	Interested Parties Response	Applicant Response																				
	<ul style="list-style-type: none"> <li>• First Phase Reserved Matters approved: Q3 2025</li> <li>• Technical approvals and conditions discharged: Q4 2025</li> <li>• First completions on site: Q2 2026</li> </ul> <p>Consistent with an estimated delivery trajectory supplied to the local planning authorities, we estimate that the new homes will be delivered broadly in line with the following timetable:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Completions</th> </tr> </thead> <tbody> <tr><td>2026/27</td><td>45</td></tr> <tr><td>2027/28</td><td>90</td></tr> <tr><td>2028/29</td><td>90</td></tr> <tr><td>2029/30</td><td>135</td></tr> <tr><td>2030/31</td><td>135</td></tr> <tr><td>2031/32</td><td>135</td></tr> <tr><td>2032/33</td><td>165</td></tr> <tr><td>2033/34</td><td>180</td></tr> <tr><td>2034/35</td><td>125</td></tr> </tbody> </table> <p>This delivery trajectory is predicated upon a number of assumptions relating to the grant of the relevant permissions and the phased delivery of the development.</p>	Year	Completions	2026/27	45	2027/28	90	2028/29	90	2029/30	135	2030/31	135	2031/32	135	2032/33	165	2033/34	180	2034/35	125	
Year	Completions																					
2026/27	45																					
2027/28	90																					
2028/29	90																					
2029/30	135																					
2030/31	135																					
2031/32	135																					
2032/33	165																					
2033/34	180																					
2034/35	125																					
Q.5.0.12	<p>An initial proposal for a funding mechanism was published by GCC and a consultation response provided by Savills on behalf of SM&amp;MLPL dated 20 October 2023. Through this response, SM&amp;MLPL objected to the narrow focus of the proposed mechanism which only sought contributions from the nearby</p>	<p>GCC HDM has been consulting on a contribution methodology, which has been developed in line with the s122 CIL tests, and the resultant contribution amount since September 2023. That consultation closed in May 2024 and GCC responded to developers in a meeting on 18/07/24 and 21/08/24. The methodology is still to be agreed.</p>																				

ExAQ No.	Interested Parties Response	Applicant Response
	<p>Strategic Allocations within the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS).</p> <p>In response, GCC have advised that they have developed a revised funding mechanism for comment which addresses the concerns raised. This has not been published to date and, in answer to part (iii) of the question, it is not yet possible to confirm whether the revised mechanism is deemed to be acceptable. SM&amp;MLPL is happy to engage with GCC on this point when GCC is ready to share the revised funding mechanism. This dialogue could be kept alive via an appropriately worded Requirement.</p>	
<p><b>Q.5.0.16 (iii)</b></p>	<p>Insofar as part (iii) of the question is concerned, we stated in a letter of 20 October 2023 to the Applicant that we consider there is indeed a tension between the Framework, the draft funding mechanism prepared by GCC and the statutory scheme for securing Section 106 obligations<sup>1</sup>. The latter limits the level of funding which can legitimately be secured through Section 106 to that which is both necessary and proportionate in scale and kind to the impact of the proposed development. Limiting the financial contributions to those from the strategic allocations is disproportionate and not therefore compliant with the tests.</p> <p>Notwithstanding this 'in principle' concern, based on the representations and Deadline 2 submissions by the various parties, it would appear to be very unlikely that the circa £81m funding gap could be closed through Section 106 contributions from the Strategic Allocations alone. As a consequence, further discussions have taken place between the Applicants, Cheltenham and Tewkesbury Borough Council(s), and the developers of West Cheltenham and North West Cheltenham allocations.</p> <p>Following on from that it is our recommendation to the Applicant that:</p>	<p>The Applicant welcomes the support shown by St Modwen and MLPL but cannot support the pursuit of anything other than the entire Scheme. Any funding of interim works, as indicated, would reduce the availability of contributions to the funding of the entire Scheme and would be counter to this application, the funding agreement with Homes England and would not meet the Scheme's objectives.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<ul style="list-style-type: none"> <li>• the HIF funding available is dedicated towards the delivery of the J10 improvement work (excluding Associated Development) in the first instance;</li> <li>• where viable, Section 106 contributions from the strategic allocations and other developments which impact upon the transport movements at J10 and J11 contribute towards the funding of the Associated Development. A condition of the Contribution is that there would be no Grampian Condition restricting delivery of the development; and</li> <li>• that the Associated Development is delivered once the funding has been accumulated. Interim improvement works may be delivered before the Associated Development comes on stream. The interim improvements (if required) would be funded through the financial contributions from developers and delivered by GCC.</li> </ul> <p>On that basis, a letter supporting the principle of a financial contribution has been provided to the Applicant. This contribution is subject to the following:</p> <ol style="list-style-type: none"> <li>1. Planning permission is granted for the proposed development;</li> <li>2. GCC adopt a revised methodology that includes other development sites that cumulatively would be dependent on provision of the M5 Junction 10 package;</li> <li>3. Once the contract is let for the construction of the M5 J10 Improvements Scheme; the removal of any highway Grampian conditions in relation to our development concerning delivery of those M5 J10 Improvement Scheme works. For clarity, this relates to the J10 works only and not the Associated Development;</li> </ol>	



ExAQ No.	Interested Parties Response	Applicant Response
	4. Other sites contribute in line with the methodology described above to address the funding gap; and  5. Consideration of any site-specific viability issues in determining contributions which may include consideration of how Community Infrastructure Levy may be used to also address the funding gap.	
<b>Q.5.0.17</b>	Whilst there is an agreement in principle, there is no agreement as yet regarding the details of the Funding Mechanism. For further details see our response to Questions 5.10.12 and 5.10.16.	The Applicant understands that GCC as highway authority has been consulting on a contribution methodology, which has been developed in line with the s122 CIL tests, and the resultant contribution amount since September 2023. That consultation closed in May 2024 and GCC responded to developers in a meeting on 18/07/24 and 21/08/24. The methodology is still to be agreed.

# AtkinsRéalis

5th Floor, Block 5  
Shire Hall  
Bearland  
Gloucester  
GL1 2TH

Tel: +44 (0) 8000 514 514