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All Interested Parties, Statutory Parties  
and Other Persons

Your Ref:

Our Ref: TR010063

Date: 17 September 2024

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Dear Sir/Madam,

**Planning Act 2008 (as amended) – Section 89  
The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 9**

**Planning Act 2008 (as amended) – Section 123 and the Infrastructure Planning  
(Compulsory Acquisition) Regulations 2010 – Regulation 6**

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

### **Notification of a Procedural Decision**

I am writing to advise you of a Procedural Decision taken by the Examining Authority following the Applicant's confirmation of a formal change request dated 4 September 2024 [AS-062 - AS-073].

This follows the Applicant's initial letter in respect of changes to the Proposed Development dated 12 August 2024 [AS-061] and the Examining Authority's response [PD-011].

The background to, and the Examining Authority's reasoning for the Procedural Decision are set out below.

### **Background**

The changes proposed by the Applicant comprise changes to land rights within the Order Limits at a number of locations within the route of the current M5 corridor and along the route of hedgerows to the north of the A4019.

The Applicant's letter is accompanied by a Change Application Summary Report which sets out the proposed changes to the land rights proposed and describes the plots affected. In brief the changes cover the following:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010063>



- A change is proposed to the Land Plans to align them with the extent of dormice hedgerow mitigation shown on the General Arrangement plan and Environmental Master plan to undertake a more efficient maintenance of hedgerow 48.
- to upgrade the rights sought in respect of the following plots within National Highways' ownership from temporary possession (shown green in the Land Plans) to temporary possession and acquisition of rights (shown blue in the Land Plans): 3/2b, 5/2h(i), 5/2j, 5/2k, 5/2l and 5/2y.
- to downgrade rights under National Highway's ownership on Plots 3/2c, 4/1c, 4/1c(i), 5/2z and 5/6h.

The Applicant concludes that as the changes are to land rights only and do not affect any design changes there would be no material environmental effect.

### **The Examining Authority's reasoning and decision**

We have reviewed the information provided and assessed the Applicant's request in line with DCLG Guidance Planning Act 2008: Examination of Applications for Development Consent and the Planning Inspectorate's Advice Note 16: How to request a change which may be material.

The Examining Authority recognises that in considering whether or not to accept the proposed change for examination it needs to act reasonably and in accordance with the principles of natural justice. The Examining Authority must be satisfied that anybody affected by the proposed changes would have a fair opportunity to make their views on them known and to have their views properly taken into account.

We note that the Applicant proposes to undertake further consultation to comply with Compulsory Acquisition Regulations. However, we are clear that even non-material elements need to be made available to all relevant parties during the Examination in a clear and accessible way.

The Applicant's submission in relation to the environmental impact assessment concludes that the proposed changes do not generate new or different likely significant effects. We concur with this view and are content that the environmental impact assessment's conclusions around significance of effects would remain the same.

We have also concluded that the proposed changes would make no difference to the outcome of a Habitats Regulations Assessment.

We agree with the Applicant that the proposed changes do not materially alter the original application and that the development now being proposed remains in substance that which was originally applied for. We are therefore satisfied that the proposed changes would not amount to a different project being proposed.

The proposed change does however engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) (the 'CA Regulations'), and we note that agreement has not been reached with all the relevant Affected Persons in advance of the change request. We therefore conclude that this does amount to a material change to the application.

Overall, we are content that the supporting information provided with the notification and confirmation of the proposed changes is of a satisfactory standard for examination.

We are also satisfied that if all the steps outlined within the Applicant's submission are undertaken in time, sufficient time remains in the Examination for the proposed changes to be properly and fairly examined, including the opportunity for any affected parties to provide written submissions and oral representations to Hearings, and to comply with the procedural requirements of the CA Regulations.

The Examining Authority has therefore decided to accept this proposed change to the application for examination, and we have written separately to the Applicant to advise this, and to provide a reminder of the Applicant's consequential duties under Regulations 7, 8 and 9 of the CA Regulations.

### **Next steps**

It is now the Applicant's responsibility to publicise the proposed change that incorporates the change to land rights in accordance with the CA Regulations. We would stress that it is important for this to start as soon as possible to allow the Examination to be completed within the statutory six-month time frame.

The Applicant must advise the Case Team of its proposed schedule as soon as possible, so that an appropriate form can be made available on the project page of the Planning Inspectorate's National Infrastructure website for representations to be made on the proposed change only.

At that time, we will also issue a revised Examination Timetable, which will include the deadline for representations to be submitted on the proposed change.

Please contact the Case Team if you have any questions about this letter.

Yours faithfully

*Edwin Maund*

**Edwin Maund**  
**Lead Member of the Examining Authority**

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Chris Beattie  
Highways and Infrastructure  
Gloucestershire County Council

Your Ref:

Our Ref: TR010063

By email

Date: 17 September 2024

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Dear Chris Beattie,

## **Planning Act 2008 (as amended) – Section 89**

## **Planning Act 2008 (as amended) – Section 123 and the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 – Regulation 6**

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

### **Notice by Applicant of a request for changes to the application**

Thank you for your letter dated 4 September 2024 and the information setting out the request to make changes to the application which include changes to land rights thereby engaging the Compulsory Acquisition Regulations. The letter and the supporting information have been published on the project page of the National Infrastructure Planning website under the heading of Additional Submissions.

Since your initial letter advising of the intention to make a change request, you have chosen to split the proposed changes into two elements, the current Change Request 1 and a subsequent Change Request 2 to be submitted on 1 October. This letter sets out the ExA's Procedural Decision in respect of Change Request 1 only, consideration in respect of Change Request 2 will be made once received.

### **The current request Change Application 1 Change No.8 – Change to Land Rights only.**

In accordance with Regulation 6 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended), the Examining Authority has decided, on behalf of the Secretary of State, to accept this proposed change as part of the application. In reaching this decision we are satisfied that it complies with the requirements of Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended). Details of our considerations are set out in a Procedural Decision letter which has also been

published on the project page of the Planning Inspectorate's National Infrastructure website<sup>1</sup> today.

This acceptance is made on the basis that all the process can be completed in the required time prior to the close of the Examination and in accordance with the revised Examination Timetable that we will publish in due course. If this is not achieved, then we will not be able to take the change request into account in our recommendation report to the Secretary of State as it will not have complied with the relevant statutory procedures.

Please be aware of your duties under Regulations 7, 8 and 9 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) and the information contained in our Procedural Decision letter.

The Applicant must ensure that all persons who may wish to comment on the proposed change to the Order land, including any who are not currently Interested Parties, have a fair and reasonable opportunity to make representations as part of the Examination.

It is critical that the Applicant advises the Case Team of its proposed schedule as soon as possible, such that an appropriate representation form can be made available on the project webpage and so that we are able to revise the Examination Timetable to incorporate the proposed deadline for representations. The availability of sufficient time to complete the necessary process before the close of the Examination is marginal, and accelerated action will be required by both the Applicant and the Examining Authority within the wider statutory timescales required for the process if it is to be satisfactorily concluded.

The Applicant is requested to make suitable provision in its procedures for any relevant parties who may wish to respond to notifications and publicity but do not have access to the internet.

If it were possible to bring forward the consultation, this could reduce the pressure that otherwise results towards the end of the Examination and would be more likely to allow for the necessary steps to be followed.

As we set out in our earlier letter, 21 August 2024, the Applicant will need to submit a Consultation Report which includes copies of any consultation responses received and how the Applicant has responded. This important step is not included within Table 1 of the Change Application Summary Report but is included later as something which would not be received until 15 November 2024. We consider this needs to be received no later than Tuesday 5 November 2024.

In missing out this step from Table 1. It is also noted that time has not been allowed for the Applicant to respond to any final submissions to post hearing submissions in the event these are required.

In addition, the Advice Note states that the correspondence confirming that Affected Parties who have agreed that they do not oppose the change to land rights proposed, is

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<sup>1</sup> <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010063>

submitted with the change request and this would not appear to have been sent in respect of National Highways land interests. Please provide a copy of the correspondence as soon as possible.

Considering the absence of steps in Table 1 within the indicative schedule, I have prepared an examination timetable that I am currently considering, hoping this will aid all parties now. A final adjusted timetable will be formally published in due course.

14.	<b>Publication of:</b> • The ExA's Second Written Questions	Tuesday 10 September 2024
15.	<b>Deadline 5</b> For the Receipt by the ExA of: • Responses to ExQ2 • Updated Land Rights Tracker	Tuesday 1 October 2024
16.	<b>Publication by the ExA of:</b> • Agendas for ISH4	Tuesday 8 October 2024
17.	<b>Issue Specific Hearing 4 (ISH4)</b> • ISH4 - Traffic and Transport, Funding, DCO, Noise, Flooding, and the Water Environment.	Tuesday 15 and Wednesday 16 October 2024
18.	<b>Publication by the ExA of:</b> • Report on the Implications for European Sites (RIES) and any associated questions (if required) • ExA's commentary on, or schedule of changes to, the dDCO	Tuesday 22 October 2024
19.	<b>Deadline 6</b> For receipt by the ExA of: • Relevant Representations in respect of Change Application 1 for Change 8	Friday 25 October 2024
20.	<b>Deadline 7</b> For receipt by the ExA of: • Written summaries of oral submissions made at Hearings held during the w/c 14 October 2024	Wednesday 30 October 2024
21.	<b>Publication of:</b> • The ExA's Third Written Questions (ExQ3) (if required)	Wednesday 30 October 2024
22.	<b>Deadline 8</b> For receipt by the ExA of: • Applicant's Consultation Report	Tuesday 5 November 2024
23.	<b>Deadline 9</b> For receipt by the ExA of: • Comments on the RIES and responses to any associated questions (if issued) • Comments on any additional information/submissions received by Deadline 8 • Comments on the ExA's dDCO/Schedule of changes • Responses to WRs, RRs and responses to ExQ3	Thursday 14 November 2024
24.	<b>Date reserved for Hearings:</b> • Issue Specific Hearing (ISH) (if required)	Thursday 21 November 2024

	<ul style="list-style-type: none"> <li>• Compulsory Acquisition Hearing (CAH) (if required)</li> <li>• Open Floor Hearing (OFH) (if required)</li> </ul>	
25.	<p><b>Deadline 10</b></p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions made at Hearings held on 21 November 2024</li> <li>• Closing Submissions (all except Applicant)</li> <li>• Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010</li> </ul>	Thursday 28 November 2024
26.	<p><b>Deadline 11</b></p> <p>For the receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Applicant's closing submissions</li> <li>• Applicant's responses to oral submissions made at ISH/CAH/OFH w/c 20 November</li> </ul>	Tuesday 3 December 2024
27.	The ExA is under a duty to complete the Examination of the application by the end of the period of six months	Wednesday 4 December 2024

## Proposed Change Application 2 Changes 1-7

I believe for clarity it would be sensible that a precautionary approach is taken in respect of publicity and consultation for these prospective changes, and it is understood this is currently the Applicant's intention, for this to run in parallel with the publicity and consultation in respect of the compulsory acquisition publicity. I recognise this is a decision for the Applicant.

If this remains the case it will be important having split the change requests that the consultation is clear on where comments are to be sent and for which aspects of the changes you are inviting comments.

For this to work within the limited time available within the Examination, the publicity and consultation needs to run in parallel for parties to make representations and subsequently respond to them.

Yours faithfully

*Edwin Maund*

**Edwin Maund**  
**Lead Member of the Examining Authority**

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