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Joint Councils Deadline 5 Submission

Gloucestershire County Council, Cheltenham
Borough Council, Tewkesbury Borough Council

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M5 JUNCTION 10 IMPROVEMENTS SCHEME DCO

**Joint Councils' Response to the Examining
Authority's Second Written Questions**

Notice

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1. Introduction

- 1.1.1 This document is prepared on behalf of Gloucestershire County Council (GCC), acting on behalf of GCC in its role as the Local Highway Authority, Cheltenham Borough Council (CBC) and Tewkesbury Borough Council (TBC) as Local Planning Authorities (LPAs), together the Joint Councils. The Joint Councils are the host authorities for the GCC Major Projects Team ('the Applicant') M5 Junction 10 Improvements Scheme Development Consent Order (DCO) ('the Scheme').
- 1.1.2 This document is the Joint Councils' Response to the Examining Authority's (ExA's) Second Written Questions (ExAQ2), submitted at Deadline 5 of the Examination.

2. The Joint Councils' Response to ExAQ2

Table 2-1 – The Joint Councils' Response to ExAQ2

ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
1. General and Cross-topic Questions			
1.2 Need			
Q1.2.2	The Applicant, Bloor and Persimmon Homes, Joint Councils, St Modwen and Midlands Land Portfolio	<p>Local Policy</p> <p>The JCS, as adopted, does not stipulate that for individual allocations, each subsequent planning application must not go ahead in advance of any road improvement scheme but to set out how it proposes to ensure the particular scheme would need to address “the provision of infrastructure and services required as a consequence of development,”</p> <p>Paragraph 5.8.7 of the JCS goes on to say “This policy will primarily be delivered through the development management process. Early engagement with the Local Planning Authority at pre-application stage is encouraged. Developers may note in this respect that Gloucestershire County Council has adopted a ‘Local Developer Guide: Infrastructure & Services with New Development’ (February 2013) that relates to infrastructure requirements and associated matters for which it is responsible.” (Our Highlighting)</p> <p>(i) Is it not the case, that even if the ExA were to accept the Applicant’s case that the need for the broad infrastructure improvements has been established through the evidence base for the JCS, the actual policy and supporting paragraphs do not specifically require this proposed development, or specifically justify it in need terms.</p> <p>(ii) Does it not remain the case for the developer to demonstrate to the LPA’s satisfaction that the scheme proposed provides the infrastructure and services required as a consequence of the individual developments?</p>	<p>The M5 J10 DCO Scheme is consistent with the policies outlined within the adopted Gloucester, Cheltenham & Tewkesbury Joint Core Strategy (JCS). These policies were informed by the JCS Transport Strategy which was prepared as part of the evidence base prepared to support the JCS. The JCS Transport Strategy was agreed by both the Strategic and Local Highway authorities. Once the JCS was adopted the County Council’s Local Transport Plan was updated to reflect the JCS. The highway improvements identified in the M5 J10 DCO Scheme are intended to mitigate the growth proposal outlined in the JCS. This provided the policy basis for the HIF funding bid for the M5 J10 scheme.</p> <p>When making recommendations to the planning committee on a planning application for individual development schemes, the LPA must base advice on the best available information at that time. These recommendations will consider the merits of the applications against the statutory development plans and material planning considerations. The material planning considerations by the LPA include the statutory responses from both National Highways and GCC as Local Highway Authority, which may address implications of the development proposal on the strategic and local network. The LPAs have been working closely with both National Highways and GCC as Local Highway Authority to determine the extent of development that can be accommodated ahead of the full build out of M5 J10. The LPAs look to the relevant statutory consultees (National Highways and GCC as Local Highway Authority) to help to inform the recommendation which will ultimately be presented to the relevant planning committees, being mindful that one material planning consideration is ‘highways’. It therefore remains the case for each developer to demonstrate to the LPA’s satisfaction that the scheme proposed provides the infrastructure and services required as a consequence of the individual developments.</p>
3. Biodiversity, Ecology and the Natural Environment			
Q3.0.1	The Applicant, Joint Councils	<p>LEMP</p> <p>The Joint Councils sought amendments to the LEMP in response to FWQ 3.0.6.</p> <p>Have amendments been made which now resolves this concern?</p>	No revised LEMP has been submitted. The Joint Councils’ comments, as set out in our response to Q3.0.6 detailed in REP3-064, remain. It is our understanding that the Applicant does not intend to update the LEMP at this stage, and that the Joint Councils’ comments will be passed to the ECI contractor who will be preparing the 2 nd iteration of the LEMP. This is detailed in the Statement of Common Ground (REP1-034, matter reference number 19.1).
5. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations			
Q5.0.1	The Applicant, Joint Councils, Bloor and Persimmon Homes, St Modwen and Midlands	<p>Funding</p> <p>At CAH1 the Joint Councils advised that there had been a change to the Community Infrastructure Levy Funding Statement. Please can all parties explain what</p>	Tewkesbury Borough Council, Cheltenham Borough Council and Gloucester City Council are each Community Infrastructure Levy (CIL) Charging Authorities and are required to prepare separate CIL Charging Schedules. In January 2024, the Councils established a CIL Joint Committee to collaboratively make allocations and monitor the expenditure of pooled CIL funds alongside an approved and

ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
	Land Portfolio, Cheltenham Borough Council Property and Asset Management	<p>implications this has for the funding in respect of Compulsory Acquisition and the obligations under those regulations, and secondly in the Applicant's capacity to fund the construction of the project.</p> <p>In responding, please set out any implications for the timing of the delivery of such funding, and as far as you can the changes to the amount of funding this could ultimately deliver, relative to the sums which might be delivered through s106 alone?</p>	<p>updated CIL infrastructure list. The first CIL Joint Committee meeting will take place in Autumn 2024. The first meeting of the CIL Joint Committee will agree the prioritisation framework which will be used to support the Committee to prioritise the wide range of CIL projects set out within the Infrastructure list agreed by Cheltenham, Gloucester and Tewkesbury Councils. Following this first meeting, which will be focused on governance, the meeting agenda will focus on the award of CIL funds on infrastructure that supports the growth of the CIL Charging Authority's area, this is anticipated before the end of 2024. At this point in time, the Joint Councils cannot confirm allocation of CIL funds to any project on the agreed CIL Infrastructure List as this is a decision for the CIL Joint Committee and to do so will effectively be pre-determination. The CIL Infrastructure List has been submitted by the Joint Councils at D4.</p> <p>Policy INF7 of the JCS deals with the Councils' collection of s106 contributions and CIL monies from developers. The Policy states that arrangements for financial contributions towards the provision of infrastructure required as a consequence of development will be negotiated with developers before the grant of planning permission, and that financial contributions will be sought through the s106 and CIL mechanisms as appropriate. Additional information has been submitted in respect to s106 at D4. The link to the Planning Statement [REP4-048b] can be found via the following link: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010063/TR010063-000956-c%2012%20August%202024%203.pdf.</p> <p>The remainder of this question is for the Applicant to respond.</p>
Q5.0.2	The Applicant, Joint Councils, Bloor and Persimmon Homes, St Modwen and Midlands Land Portfolio, Cheltenham Borough Council Property and Asset Management	<p>Funding</p> <p>The ExA understand that the Community Infrastructure Levy Amendment Regulations 2019 removed the restrictions on pooling funds and on funding the same item of infrastructure from both CIL and s106 obligations.</p> <p>Can each party explain the changes that the inclusion of the M5 J10 within the Infrastructure Funding Statement has in respect of the potential to facilitate funding in combination with any s106 money?</p>	<p>In principle, CIL funding may be secured alongside s106 contributions. In the discussions with relevant developers when planning applications are brought forward there will be an element of s106 contributions negotiations to assist with the provision of community infrastructure across the strategic site allocations in order to mitigate any potential harm of the development.</p> <p>The Joint Councils' LPAs are currently in live negotiations across all the developments. At the moment, the Joint Councils are unable to confirm any amount and the timing of when such s106 contributions may become available. In respect of s106 contributions, the Scheme is not the only transport or public infrastructure for which financial contribution is sought as a mitigation of a development, being only one of the many public infrastructure considerations.</p> <p>In respect of CIL funding, the Joint Councils cannot give a commitment that a decision would be made on the amount of or timing of CIL funding as this is a decision for the CIL Joint Committee.</p>
Q5.0.5	Joint Councils	<p>Funding</p> <p>During the CAH the JC indicated that M5J10 had now been added to the infrastructure list and this is confirmed in the D4 submission, however the Infrastructure List (Appendix 2) to the submission refers to the M5J10 as a 'Project Requiring More Work to Identify Costs.' This would appear to be an earlier list of infrastructure projects. Please clarify the situation.</p> <p>Assuming the M5J10 has now been included in the Infrastructure List for CIL can the Joint Councils update the ExA on the current position in respect of the response provided to FWQ 5.0.18.</p> <p>(i) Is it still the position that the Joint Committee will need to agree a prioritisation methodology?</p> <p>(ii) Assuming this to be the case, when is it expected this would take place?</p> <p>(iii) In seeking to understand the broader picture for CIL can the Joint Councils set out the anticipated balance sheet of projects anticipated to deliver CIL against the projects they are to support so that we can understand where the Proposed Development fits in the overall funding situation.</p>	<p>Please refer to our response to Q5.0.1 above.</p> <p>(i) Yes, the Joint Councils' position remains the same that the CIL Joint Committee will need to agree the prioritisation methodology.</p> <p>(ii) Awaiting date to be confirmed by the democratic services team; likely to be Autumn 2024 (please note this has been delayed by the recent Tewkesbury cyber incident).</p> <p>(iii) In the same way that, at the present time, there is not a clear picture on how much s106 contributions may be allocated to the M5 J10 project, the specific request from the CIL fund is also not confirmed. The project was listed as 'requiring more work to identify costs' because at the time of the Councils agreeing the Infrastructure List, the methodology was not agreed, which remains the case, and therefore the sums across the different finance streams are yet to be clarified.</p> <p>M5 J10 is one of a long list of schemes included on the CIL Joint Committee 'Infrastructure List' of the three partner Councils. As the funding shortfall for these projects far exceeds the CIL income secured to date, or able to be projected with certainty, it will be up to the CIL Joint Committee to decide on the public infrastructure allocation priorities and confirm any funding amounts.</p>

ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
6. Draft Development Consent Order (DCO)			
Q6.0.3	Joint Councils	Regulation 6 of the Hedgerow Regulations 1997 Can the Councils advise whether they have any concerns regarding the disapplication of these regulations or confirm they are content with this addition to the dDCO?	The dDCO [REP4-011] includes Requirement 3(c) which refers to an Environmental Management Plan and the Register of Environmental Actions and Commitments. The Register of Environmental Actions and Commitments [REP4-018] includes a number of measures to protect legally protected and priority species through careful timing of site clearance or provision of ecological watching briefs (undertaken by Ecological Clerk of Works). Therefore, the Joint Councils are content with this addition to the dDCO.
Q6.0.4	Applicant, National Highways, and Joint Councils	Discharge of Requirements Clarity is required on the progress between the parties on the procedure for the discharge of requirements, the role of consultees, and any arbitration process in the event that agreement is not reached. Can each party clarify their current position and provide the wording in respect of any requirements, discharge arrangements, consultees, and arbitration that they would wish to be included within the dDCO where not presently agreed? (The ExA notes there has been a series of updates to the REAC and the dDCO submitted at D4 by the Applicant. If these changes have resolved the concerns previously identified, please confirm this to be the case)	The dDCO has been amended to reflect that the discharge of requirements has changed from the County Planning Authority to the Secretary of State. This amendment was made following concerns raised by National Highways not the Joint Councils. The Joint Councils are content with the proposed change and can confirm they were consulted and can also confirm that the County Planning Authority are content with said changes. The Joint Councils are in agreement with this approach as set out in the dDCO submitted by the Applicant at D4. The Joint Councils also confirm agreement with the changes to the REAC which (there are 2 additional actions) relate to actions to deal with fish while working in Leigh Brook watercourse (B28) and that the LLFA will be consulted for detailed design elements for works that relate to ordinary watercourses (WE23).
Q6.0.5	Applicant, Joint Councils	Article 7 Planning Permission (i) Can each party provide their preferred wording for this Article, if there is not resolution to the disagreement referenced in the response to FWQs? (ii) Can the Applicant provide reference to a precedent which has been agreed by the SoS?	(i) 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. However, the Joint Councils have concerns that the further drafting at Article 7(2) & (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 Councils' 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) & (3) should be deleted. 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. (ii) For the Applicant to respond.
Q6.0.6	Applicant and National Highways	Article 10 Consent to transfer benefits (i) Can the ExA be updated on the progress on the side agreement between the NH and the Applicant with respect to if the concerns NH identify in the PADDs are now resolved? (ii) In the event agreement is not reached, can each party give a detailed explanation of their position?	The Joint Councils are not a party to the Side Agreement with National Highways. Therefore, the Joint Councils are not in a position to respond to this question.
9. Heritage			
Q9.0.1	The Applicant, GCC and Joint Councils	Archaeological Management Plan (AMP) The ExA understands that the current GCC Archaeologist post is being advertised in order to recruit to the post. What the ExA is seeking to ensure/understand is that the wording within the AMP can be met by the	The following comprises the Joint Councils' combined response to Q9.0.1 and Q9.0.2: The vacant post has been filled and Vanessa Clarke has been in post since 2 nd September 2024, so there will be no lack of capacity for, or delay in, undertaking monitoring including signing off reporting on the additional geophysical survey and trial-trenching evaluation. The County Archaeologist has been notified of the commencement of the outstanding geophysical survey on 1 st October 2024 and has been sent a copy of the WSI for approval which accords with the high-level scope of works previously agreed with the former County Archaeologist. The Applicant's written case for ISH3 [REP4-037] cited that geophysical survey work is due to start in Autumn 2024 with

ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
		obligation “that all works will be monitored by the LPA Archaeological advisor”. In the event the DCO is granted is there a mechanism that ensures suitable availability to undertake this monitoring as the AMP requires?	trial trenching undertaken in 2025 and the Joint Council’s Written Submission [REP4-048c] was based on an understanding that the further geophysical survey should be underway from this month and completed before the end of Examination in December 2024. The written scheme of investigation for the outstanding geophysical survey suggests a provisional completion date of November 2024. The Applicant’s comments on the Joint Councils’ Response to ExAQ1 9.0.1, Q9.0.3, Q9.0.4 and Q9.0.5 in REP04-35 suggests that the JC’s, Historic England and GCC Archaeology Service will be consulted upon the revised/2 nd iteration of the AMP and EMP in advance of construction, which should take into account the results of the additional geophysical survey. Section 2.6.16 of the JC’s written submission for Deadline 4 (REP4-048c) suggests that they are ‘content with the location of the proposed extra works and the proposed geophysical survey areas which will fulfil and inform the DCO decision going forward’. The Historic England response to ExAQ [REP3-072] makes it clear that they too are expecting a revised version of the AMP before a DCO decision’ (this would require as a minimum the additional geophysical survey to have been completed and reported upon). The Archaeological Management Plan Annex [AS-038] states at: B.8.6.6 that ‘All works will be monitored by the Archaeological Consultant and the LPA Archaeological advisor’. For clarity, and as per normal practice and in accordance with the NPSNN (sections 5.204 - 5.215), the Applicant/their heritage consultant will need to appoint/subcontract a commercial archaeological contractor (preferably a Registered Organisation with the Chartered Institute of Archaeologists) to undertake the works set out within the AMP and forthcoming site-specific WSIs/Project Designs. The role of the GCC archaeological advisor is to monitor and assess on behalf of the relevant Joint Councils/SoS, the standard of fieldwork, recording, reporting, archiving and public/community engagement undertaken by the archaeological contractor appointed by the applicant/their heritage consultant - this is to ensure the programme of works accords with the approved AMP and WSIs/Project Designs and national policy, guidance and professional standards. The role of the GCC advisor is not to themselves resource the work set out within the AMP and site-specific WSIs/project designs. However, they will be available for weekly meetings, or as and when required, to ‘monitor’ the works of the appointed commercial archaeologist and help support the applicant/developer to meet the requirements of Section 9 of the draft DCO. GCC’s Consultant can also make available resources to help monitor the programme of archaeological works.
Q9.0.2	The Applicant	Geophysical Surveys - Archaeology The JCs D3 response confirms that geophysical surveys are required ahead of the end of Examination to assess whether the legal tests on heritage impacts have been met appropriately. Is this agreed? Please can the Applicant confirm that this information will be submitted in good time, in order for the JCs to be able to respond to the findings and the ExA given evidence prior to the close of the Examination.	

11. Landscape and Visual

Q11.0.1	The Applicant and Joint Councils	Acoustic Barriers (i) Can the Applicant confirm their position with respect to the D3 request from the JC that LV6 of the REAC be modified to explicitly include the objective of implementing a vegetated solution for the barriers? (ii) In the event this is not included it would appear that the Landscape and Visual Impact Assessment Chapter should be updated to assess the impacts of a non-vegetated design solution. If the Applicant does not agree that this is the case, please explain the reasons why this would not be appropriate? (iii) It would appear there is very limited space to allow planting on both sides of the barriers along the A4019. Can GCC confirm as Highway authority they agree to landscape planting to screen the fences within the highway, and that appropriate space is available for maintenance? (iv) Can the Applicant point out how the effect on residential properties has been assessed where barriers are proposed and the significance or otherwise of the effect created upon these residential properties and the balance to be struck between any visual harm and acoustic benefit.	(i) For the Applicant to respond. (ii) The Joint Councils acknowledge that the LVIA assumes some enhancement to visual amenity compared to a standard plain barrier, and this assumption has informed the assessment’s conclusions. However, the visualisations depict a worst-case scenario with no treatment provided. Therefore, we believe the assessment should either be based on this worst-case scenario or include a commitment to confirm the treatment to be provided. There appears to be some ambiguity in this regard. (iii) The Joint Councils agree that there seems to be limited space for planting along the barrier in this location if a vegetated design solution were proposed. To clarify, the Joint Councils confirm that the current proposal at the preliminary design stage is a timber acoustic fence. We suggest clarifying what mitigation in the form of visual and biodiversity treatments could be proposed for consultation with the Local Highway Authority at the detailed design stage, and what treatments will be achievable in the various locations where an acoustic barrier fence is required. (iv) For the Applicant to respond.
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12. Noise and Vibration

Q12.0.2	Applicant, Joint Councils	Noise Mitigation	(ii) Yes. The modelling of noise levels previously provided by the Applicant suggested that the number of noise sensitive (i.e. residential) properties located in the Joint Councils’ administrative area which will suffer significant adverse effect during construction works is
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ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
		<p>In response to Action Point ISH3.39, the Applicant suggests that the need for mitigation (insulation or rehousing etc) would be established following detailed design and secured via the 2nd Iteration of the EMP.</p> <p>(i) How can the ExA be assured that this process is appropriately secured at this stage?</p> <p>(ii) Are the JC content with the approach offered by the Applicant?</p>	<p>relatively small, and that the duration of disruption is likely to be of the order of days, rather than weeks. It is feasible that as further details of the planned works and scheduling emerge, provision can be made to suitably mitigate the effects of construction noise, either by temporary re-housing or noise insulation.</p> <p>A Noise Mitigation Strategy is to be submitted to and approved by the Secretary of State prior to commencement of the authorised development. Such strategy is to include consultation with the County and Local Planning Authorities in accordance with Requirement 14 of the dDCO. If a draft strategy has been prepared, the Joint Councils look forward to input or consultation on this.</p>

15. Traffic and Transport

Q15.0.4	Joint Councils, Applicant	<p>Departures from Standards</p> <p>The ExA note the D3 submission from the JCs including that relating to Departures from Standard and that the JC Project Team were not party to any discussions with respect to this matter, but GCC's independent Departures for Standard Board is attended by senior qualified officers who are not directly involved in the scheme from the Applicants point of view and can therefore be "construed" as representative of the Joint Councils?</p> <p>For the avoidance of doubt, please can the JC confirm the position with respect to agreements for the Departures from Standards included within the proposals for the local road network. Is there any outstanding requirement for the JC to provide any further agreements with respect to any departures proposed?</p>	<p>GCC as Local Highway Authority (represented in this DCO by the Joint Councils) are the Overseeing Organisation for the local roads on this scheme and as such are responsible for ensuring that highway designs comply with relevant local and national standards, where applicable. Where designs differ from said standards then GCC's process is to go through a Departures from Standard (DfS) Board which will consider each of the applications. The DfS Board met to consider the preliminary design DfS submitted by the Applicant and all the DfS submitted for the local highway network were approved. At detailed design all DfS will be reviewed and formally resubmitted for approval, this will again be undertaken via GCC's DfS Board process.</p>
Q15.0.5	Joint Councils, Applicant	<p>Departures from Standards</p> <p>Can both parties explain if the Deadline 4 'Departures from Standard Report' was provided to the JC to inform their respective positions / decisions about the acceptability of the departures from standard sought?</p>	<p>For clarity the Joint Councils did not exist as an entity at the time that the Departures from Standard (DfS) report was submitted to GCC as Local Highway Authority.</p> <p>We confirm that as part of the process (as described in the answer to Q15.0.4 above) the DfS Report was submitted to the Local Highway Authority as part of the DfS Board process. This report was used by the Board to inform the decision on each of the respective departures required as part of the preliminary design for the Scheme. The report was then updated with the decisions for each DfS and re-issued and this is the version of the report submitted at D4.</p>
Q15.0.6	Joint Councils, Applicant	<p>Departures from Standards</p> <p>Can both parties confirm their position with respect to the acceptability of DFS.10 as considered in the Deadline 4 'Departures from Standard Report'? The decision stated suggests that it was 'approved with comments', however the comment suggests that the item should remain 'on the departure list and review at detailed design stage'?</p>	<p>With regards to DfS.10, the Joint Councils confirm that they are comfortable with the departure to remain on the departure list. Please refer to our answer to Q15.0.4 where it states that it is normal practice to review, potentially amend and resubmit DfS at detailed design stage when more information becomes available and further iterations of the design have taken place.</p>

16. Water Environment – Flood Risk, Water Quality and Resources

Q16.0.2	The Applicant and Joint Councils	<p>Essential Infrastructure</p> <p>The EA has provided alternative positions in their D4 submission in respect of 'essential infrastructure' with regard to the link road, can the Applicant's and Joint</p>	<p>The Joint Councils have invited the drainage authorities within the Joint Councils to make a response to Q16.0.2. The following response was received from the Lead Local Flood Authority (LLFA) at GCC:</p> <p><i>'Our team doesn't carry out a planning authority role so we don't usually make these sorts of decisions. However, for the reasons outlined below about the nature of the Scheme and its impact on flood risk, we wouldn't object to it being classified as a single vulnerability classification.'</i></p>
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ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5
		Councils advise of their position on this and explain the justification for the approach?	<p>The following response was received from the drainage consultant representing TBC:</p> <p><i>‘Only the water-compatible uses and the essential infrastructure listed in table 2 of the National Planning Practice Guidance (NPPG) on “flood risk and coastal change” that has to be there should be permitted in this zone. It should be designed and constructed to:</i></p> <ul style="list-style-type: none"> • <i>remain operational and safe for users in times of flood;</i> • <i>result in no net loss of floodplain storage;</i> • <i>not impede water flows; and</i> • <i>not increase flood risk elsewhere.</i> <p><i>Essential infrastructure in this zone should pass the Exception Test.</i></p> <p><i>Essential infrastructure under the NPPF classification:</i></p> <ul style="list-style-type: none"> • <i>Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.</i> • <i>Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; including electricity generating power stations, grid and primary substations storage; and water treatment works that need to remain operational in times of flood.</i> • <i>Wind turbines.</i> • <i>Solar farms.</i> <p><i>The EA have confirmed that technically the proposals are acceptable in flood risk terms but are querying the definition of essential infrastructure on the basis that the road is to facilitate a wider development rather than support an existing development. However, the two need to be considered together. The road is essential for future expansion of the area, without the road the adjoining scheme would not be viable and vice versa. I agree with the LLFA at GCC, that they should be classified under the same banner.’</i></p> <p>The following response is received from the Flood Risk and Drainage Engineer at CBC:</p> <p><i>‘The EA have queried if the Link Road element of the Scheme can be defined as “essential infrastructure” as it is only proposed to support future development. As the parts of the scheme including the Link Road are within flood zone 3b the development would only be permitted under NPPG (table below) if it is defined as “essential infrastructure”.</i></p> <p><i>The EA also state if the scheme is considered essential infrastructure: “In principle we would consider the scheme would pass the exception test, in relation to flood risk, as we have reviewed the updated modelling”.</i></p> <p><i>The Statement of Common Ground Environment Agency [REP4-024] says the SoS will confirm if the scheme is essential infrastructure. Given that the EA review of the modelling has concluded that flood risk is managed appropriately, this seems to be more of an administrative/compliance issue rather than technical, but I would be inclined to agree with the response of the applicant, in that the individual elements of the project are linked and dependant on each other and can therefore be given a single overarching vulnerability classification.’</i></p>

ExAQ2 ref	Question to:	Question	Joint Councils Response at Deadline 5																																				
			<p data-bbox="1329 205 2041 235">Table 2: Flood risk vulnerability and flood zone ‘incompatibility’</p> <table border="1" data-bbox="1329 289 2160 890"> <thead> <tr> <th data-bbox="1329 289 1418 386">Flood Zones</th> <th colspan="5" data-bbox="1418 289 2160 386">Flood Risk Vulnerability Classification</th> </tr> <tr> <td></td> <th data-bbox="1418 415 1584 491">Essential infrastructure</th> <th data-bbox="1584 415 1733 491">Highly vulnerable</th> <th data-bbox="1733 415 1881 491">More vulnerable</th> <th data-bbox="1881 415 2030 491">Less vulnerable</th> <th data-bbox="2030 415 2160 491">Water compatible</th> </tr> </thead> <tbody> <tr> <td data-bbox="1329 508 1418 537">Zone 1</td> <td data-bbox="1418 508 1584 537">✓</td> <td data-bbox="1584 508 1733 537">✓</td> <td data-bbox="1733 508 1881 537">✓</td> <td data-bbox="1881 508 2030 537">✓</td> <td data-bbox="2030 508 2160 537">✓</td> </tr> <tr> <td data-bbox="1329 567 1418 625">Zone 2</td> <td data-bbox="1418 567 1584 596">✓</td> <td colspan="2" data-bbox="1584 567 1733 663">Exception Test required</td> <td data-bbox="1881 567 2030 596">✓</td> <td data-bbox="2030 567 2160 596">✓</td> </tr> <tr> <td data-bbox="1329 693 1418 751">Zone 3a †</td> <td data-bbox="1418 693 1584 751">Exception Test required †</td> <td data-bbox="1584 693 1733 722">X</td> <td data-bbox="1733 693 1881 789">Exception Test required</td> <td data-bbox="1881 693 2030 722">✓</td> <td data-bbox="2030 693 2160 722">✓</td> </tr> <tr> <td data-bbox="1329 819 1418 877">Zone 3b *</td> <td data-bbox="1418 819 1584 877">Exception Test required *</td> <td data-bbox="1584 819 1733 848">X</td> <td data-bbox="1733 819 1881 848">X</td> <td data-bbox="1881 819 2030 848">X</td> <td data-bbox="2030 819 2160 848">✓ *</td> </tr> </tbody> </table> <p data-bbox="1329 932 1768 1079">Key: ✓ Exception test is not required X Development should not be permitted</p> <p data-bbox="1297 1138 2810 1234">The Joint Councils are not aware of any distinction in NPPF between transportation infrastructure that services current or future development and the vulnerability classification. Considering this and the above responses from the drainage authorities it would seem appropriate that the development is considered as Essential Infrastructure and acceptable subject to passing the Exception Test.</p>	Flood Zones	Flood Risk Vulnerability Classification						Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible	Zone 1	✓	✓	✓	✓	✓	Zone 2	✓	Exception Test required		✓	✓	Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓	Zone 3b *	Exception Test required *	X	X	X	✓ *
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Zone 3b *	Exception Test required *	X	X	X	✓ *																																		

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