



Hearing Transcript

Project:	M5 Junction 10 Improvements Scheme
Hearing:	Issue Specific Hearing 4 (ISH4) - Session 4
Date:	15 October 2024

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00:04

Okay, so it's 20 past four, and we'll resume the hearing again. I'll just reconfirm that teams is back up and running and the live stream yet. Thank you very much. Applause.

00:24

Are just getting a message that someone needs to be admitted into the team's virtual room. So hopefully that's occurring behind the scenes. Okay, so if we then just come on to the section 106 fund subheading under the funding part of the agenda. I think the letter of the second of October, which is now as 081 in the examination library from the joint councils, makes their position pretty clear. With regard to the latest situation on on 106 since our last hearing, could I just seek the applicant's view on that correspondence, and whether you who agree with its position or or not, as the case may be,

01:22

can I turn perhaps, to Nathan drover, who's the developer interface manager.

01:32

Thank you, sir. It's Nathan drover for the applicant. Would you like me to deal with the whole section 106, position. Just brief on that and that, because that sort of segues quite nicely into the into the letter. Would that be more helpful? By all means. Thank you, sir. So we've made quite a deal, great deal of progress on the section 106, discussions, and we've had two further developer engagement sessions on on a new funding methodology. This was on the 21st of August and the 23rd of September. So the first one was to agree with the developers consultants, the approach, and the second one was to look at the outputs from the new methodology,

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the sessions when I am Can I just sorry to interrupt with the joint councils involved with these discussions? Was it just with the developers? The

02:26

district councils were local planning authorities were both party Okay, discussions and the the engagement sessions were undertaken on the basis that they were without prejudice to the developers positions in respect of the need for junction 10 compliance with the CIL tests, whether their impacts were severe, and it also set aside potential viability issues. So it was a theoretical exercise. Is what is the best way to apportion this to meet the CIL test. And there were six. There's six applications currently on a four and a seven, and there's two other sites nearby. So if I just quickly set out the

existing methodologies, because we've been through three already. So the first methodology was using the trip rate information computer system, basically traffic generation in each individual site, which some people felt was unfair because it didn't recognize the degree to which the respective sites needed the scheme, or the degree to which the respective sites impacts were relieved by the scheme. The second methodology was using Saturn traffic modeling to work out the vehicle kilometers traveled from the respective sites on the area of the scheme to be improved. So that was a 4019, the Western link and the junction, and that loaded the northern sites with a disproportionate amount of costs, and didn't recognize that the scheme relieves traffic on the a 40 corridor from junction 11. So the third methodology then you select link analysis from the Saturn model to look at impacts between the respective sites and junction 10 and 11. And the reason for that was that all the traffic that doesn't use 11 and goes up to the south facing slips relieves the a four zero corridor and routes into South and Cheltenham. So we were quite satisfied with that one. But it is a it is a measure of the amount of relief, rather the amount of impacts. So the fourth option that was developed in the in the August workshop was using Select link analysis to determine the impacts from the individual sites at hot spots traffic hot spots in Cheltenham. And the there was this other slight refinement. It split west of Cheltenham site in North, between North and South, because they have a bus gate in the middle of them, and the north and south sites have completely different characteristics. And it used the site specific application ground floor area and unit numbers. There were a few other more complicated changes around scenario tests, which I won't go into here, so I'll just paraphrase the outputs. But So broadly speaking, and this is, this is an ongoing piece of work, and it's subject to refinement the methodology, the latest methodology, splits the apportionment, 1/3 a four, 1/3 a seven and 1/3 to a proxy site on the A 4019 which, for the basis of the method, of the methodology, we had used the safeguarded site access to load traffic onto The Network, and then some of the input from the developer said, well, actually, you know, to better meet the tests, you really need to proportionalize it out with background growth. So when you introduce background growth into that calculation, the thirds turn to quarters. So it's a quarter a four, quarter a seven quarter proxy site on the A 4019, and quarter background growth. So the developers obviously that they, they they're going to protect their position given any future planning appeal, so they're not going to necessarily accept it, but I think it was certainly a lot better, well, a lot better received. They've been formally consulted on it now, so we're waiting for feedback from the developers. And if I just jump to the letter of support, I know we're going to go through it in some detail, but what that says is that we will continue to work to refine the section 106 and seal funding approach to junction 10, to take account at the needs of the m5 junction 10, and the individual site specific characteristics, local mitigation and viability. And that's that. That's probably one of the most important points that all the negotiations, and that we can't talk about negotiations, because they're all confidential without prejudice. They're all dealing with issues which are nothing actually to do with the methodology. There's still professionally, there's still points that people would like refinement on, but all of the all of the respective planning applications and their negotiation points and things to do with other section 106, obligations, planning conditions, commercial land issues and things like that. So they've been very positive, and I think we're quite confident that we all get agreement on the section 106 packages, but it has to take into account the specific needs of the site. So what we I think what's actually happening is, rather than have a standalone methodology for a local plan. We've actually found ourselves in the middle of negotiating lots of different 106, is simultaneously for 7000 units, and trying to get a methodology that works alongside it. So it is quite complex, but we've made a lot of progress. And then on the point, sorry about the the hosts letter. I think our position is that on the policy position that that

we can rely on, I mean, we will be relying on, on inf seven. Well, inf one, inf six, and inf seven, they they all refer to cumulative impacts of the developments. And then we'll be relying on the SLP, which is currently planned to be in place, I think, in 2027 but we have actually begun discussions with LPA is about to understand their ability to bring forward an SPD, picking up on your point about whether or not we can claw back money post completion, I'm fairly certain that would have to be in a clear policy position, linked to the JCS, or it'd have to be in the SLP, sorry, there's also the seal position, But I think we'd probably deal with that separately. I so how does that,

09:31

in terms of what the joint councils have said in their letter of the second of October, is there anything in that that you disagree with in terms of what they've said about the formal position of the joint councils relative to 106,

09:49

yeah, so Nathan drove for the applicant. I think we'll give written representations on the full detail of it, but we recognize that difficulty in you know, they can. Predetermined applications. So they can't provide any commitment to section 106, there's lots of issues with introducing SPD enforceability, resources, timing, whether it's late in the JCS process. So those discussions are all ongoing with the host authority. But I'm quite I don't think we have to rely on an SPD. We just need to get these applications to committee with a resolution in accordance with the existing JCS policies. And I'm quite confident the way negotiations going at the moment, that we're going to be successful on a four and a seven. I

10:43

Okay, thank you. Do the joint councils or any other party wish to respond further?

11:01

So? Catherine Knight, joint councils in respect of a couple of points, the LPAs are unable to predetermine a commitment to Sector syllable section 106 the decisions on section 106 funds are taken through a recommendation to the planning committee, decision of CIL is through the CIL Allocation Committee, I've got good news, they have their first meeting. Is it next month? Tracy 28th that's to 12th. That's to determine the allocation policy. Though, their first allocation meeting will be early next year. In respect of working outside the how do I say this? The LPAs are committed to wider infrastructure, growth and quality developments. Infrastructure takes in a number of factors, if we've set out previously, and we will work with GCC in respect of section 106, and CIL funding approach to junction 10. However, the reliance is preferred in respect of the local strategic local plan, which is coming forward in order to give any policy decisions some tape. Anything else. No. Thank you, sir. I'll

12:40

just clarify the joint Allocation Committee that the 11th of November, 12 of November. Thank you.

12:58

So after that meeting. Is it likely that we will have some in further information as to what the CIL what, what decision are they likely to make on the on the 12th

13:13

again? Is it, yeah, I can come back on that one. So Nick Bryant for two, three, yeah. The intention is we will be taking through some prioritization criteria, which will then be used to guide and inform the decision making process around the allocation of CIL subsequent committees. So setting out that sort of approach and the basis upon which bids would be considered,

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and that would be binding on all of the Councils involved.

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It's, it's, it's a joint committee which requires unanimous agreement, but the basis of agreeing a methodology and a criteria is that it, it has application and it's used by that committee. So yes, I believe it would on that basis.

13:58

Okay, thank you. So would that, in effect, provide a hierarchy of of the bonding expenditure effectively through CIL would it? Would it provide any indication specifically where the DCO scheme ranked within the

14:18

No, not, not, not directly in that regard, however, it would set the kind of criteria that would be appropriate consideration for that decision making process, which would include, or would be likely to include, things like unlocking development potential, you know, alignment with development plan, policy, Corporate Strategy, local transport plan, that that sort of thing. That's, that's, that's the likely kind of criteria that we would be considering at that committee. But it's not agreed yet. Just to be clear, that's, that's, that's the matter for that committee to consider. So.

15:10

So as if it's helpful, Catherine Knight, sorry, joint councils, we are able, once the after the meeting on the 12th of November to forward and submit the policy which is agreed by the committee, if that's helpful,

15:22

yes, thank you. Okay,

15:32

I'll just see if the applicant has anything further they'd wish to respond on on that point. I

15:46

Sorry, yes. Nathan drove the applicant. Yeah, we just, I think we're clarifying. Our understanding is the seal pot is currently 17 million, and the the April and a seven is likely to generate an excess of 20 million. But I just wanted to check the with the host authorities at the 17 million is correct.

16:09

Sirs Catherine Knight joined authority councils. The total summit currently is approximately 17 million, and that is allocated amongst the lists that we saw. Sorry,

16:24

I'm not, I'm not clear. The 17 million is from which scheme or which combination of schemes

16:33

following that. Yeah, no, no. So the 17 million is the extant pot that exists that's been collected in the years that sills been in operation in Cheltenham, Gloucester and Tewkesbury to date. So that's that's not in relation to any contributions, that any of these

16:54

applications there, there will be a contribution from, we've already consented 260 dwellings within the North West Cheltenham allocation. And we also have a delay policy within CIL so we don't get SIL immediately once a consent is granted. But yes, there's 17 million. I think it's just under 17 million at the moment, but we can get the precise figure to you so you have that to hand that is generated from all the developments that have been consented since the SIL policy has been operational, which I think was 2019

17:39

since we'll get You an updated figure, but the sum is actually on the basis a table at the bottom of the CIL allocation policy that's already been submitted at deadline full

17:52

Yeah. I mean, each authority will have a an annual statement, won't

17:55

you? No, exactly, yeah. So the

18:00

table that's been provided already is that the latest annual statements from each council, yeah,

18:12

so that is the latest annual statement, but we can provide an updated figure and

18:16

be helpful. Thank you. I

18:23

in just thinking that through, that's only giving us sort of one side of the equation, because the other side is the long list of projects that it's needing to fund. So that list obviously had m5 junction 10 added to at about the time of our previous hearings. How does it work, then, in terms of the money coming in, relative to the quantity of money needed, is this all part of the deliberations are going to happen at the

joint committee? And, yeah, are you able to just talk me through how you anticipate it's going to work in practice?

19:11

I will do my best. Um, so Nick Bryant for Tewkesbury and yeah. I mean, in essence, you've kind of alluded to the fact that clearly that the interim infrastructure lists that have been prepared by Tewkesbury Borough Council, Cheltenham Borough Council and Gloucester City Council list a number of projects the value or cost of which greatly exceed the current availability of seal funding, and that's in essence, where we would be looking to guide members through the through the prioritization criteria, and why that's so important, in terms of making sure that we're making kind of informed decisions and recommendations to members about how that money is allocated. But it. Is fair to say that, clearly, the shopping list is considerably greater than than the seal money that's currently available. And of course, as part of the strategic and local plan making process, the new development plan that we're in the process of working through will, of course, be looking to kind of iterate and invite and evolve the infrastructure lists to sort of support future decision making on prioritization as well, or projects, but yeah.

20:30

Thank you. Thank you again. Does anyone wish to come back on on that?

20:39

No, thank you so.

20:40

Okay, thank you. I think that probably taken as far as we we can. So that takes me then to the next item, which is the the letter of in principle support, which is rep, 5031, which the applicant provided the last deadline. Some nice, easy ones. I think you've got a number of signatories on the bottom. So the blanked out box underneath Yours sincerely, is that the signatory for NEMA strategic land, as opposed to a signatory from the letter producer.

21:30

I don't have it at hand, but it would be the name of strategic land that the county council is signing as as asset manager in the letter so they if their signature is mid center, bottom of the letter, yeah. Then the other, the ones to the left, I think, was NEMA, yeah, so that's NEMA, strategic land, okay, and so they're all being sincere,

21:54

yeah. So what I was trying to understand was, effectively, you've got Gloucester County, Gloucestershire County Council's letter heading, but the signatory is the asset management and Property Services of the County Council, as opposed to the county council, per se, is that right?

22:18

Yeah, so they're signing it as developers, effectively. So Gloucestershire county council is a land owner of a four

22:24

okay? So that then takes me to my next question in terms of, as far as I am aware, we haven't had any representation in advance from either Nima strategic land, Henry boot development or glossary, county council, asset management and Property Services. I don't think we've had relevant representations from any of them. I don't think we've had written representations from them. So what is their status in the examination? Please do

23:16

so I think, I think Henry boot have had made a lot of representations early on in the process, but they probably didn't go formally into the DCO system. So they have been obviously talking to us directly. But I assume then, then, I don't know what the terminology is, I assume is that they'd be an interested party if they had made representations. Yeah. I mean,

23:38

obviously we when the process began, there was the period of relevant representations. And we obviously received letters from blow homes, persimmon homes, and Bloor and persimmon together, and obviously from Saint modwin. But I don't believe we receive letter from the other three parties, the signatories to this letter. So I'm trying to make sure my understanding of their position within the examination is correct, because I don't want to give them the wrong weight in decision making. If we should give more weight to what Blore and persimmon and st moduin have said, bearing in mind they are formally registered as interested parties or affected parties, as the case may Be, so I'm hoping you can assist me on that.

24:53

Can we reflect on their on their status? I see that Henry booth. Route development made a rep five, oh 34 which was accepted at your discretion, but

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that's the first we've seen on it. Yes,

25:15

the first, I think I had, yeah, seen, so I can we reflect on what that what our should be, their status precisely? Yeah, that just needs. We need to, yeah, think about

25:30

that. I mean, it may not matter, but I just want to make sure I'm not doing something I shouldn't. But then my sort of follow up points, obviously, with Henry boot having signed this letter, and then sending a submission in at deadline five that came somewhat out the blue, as far as we were concerned. And there was no covering letter to explain what it was or what it was relating to. So when I referred back to the planning applications that have been set out for us by the councils, I think, in rep 3068, and more latterly, in the statement of common ground with one of the developers. Planning applications that are are either Henry boot or NEMA strategic or Gloucestershire county council Asset Management parties to any of those applications for allocations a four or a seven i

26:44

Thank you, sir. Trace Birkin Borough Council, they're all representing applications. So Gloucester County Council are part of the consortium that's part of Elm Park in terms of, can I

26:59

just, can I just pause you when you say, Elm Park? Which parcel of land are you referring to? That's

27:06

North West Cheltenham, and it is that's

27:08

that's divided in according, I don't know whether it's possible to display a plan from rep 3068, or alternatively, as it might be easier to the fingertips the statements of common ground that came in at rep five, which was rep five oh 20, because, again, that had a similar plan in it, with the various application numbers that were covering the two allocations. I

27:45

That's it super. Thank you. So is it possible to just blow that up a little bit so it fills the screen, smashing.

27:55

Thank you, sir. So in terms of the County Council's interests, that is a land interest which forms part of the law and persimmon application, which is Site B,

28:08

okay, so that's that parcel on the front that we were discussing. That's correct. Yeah.

28:13

And then the signatories, which relate to st, moduins, nema and HBD relate to Site C, which is West Cheltenham, the the part of the strategic allocation that is allocated, not the safeguarded land.

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So Site C is subdivided into three applications.

28:36

It there's,

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there's three, well, there's, there's actually four applications. So there's the cent module ins applications. There's two applications from HBD, and there's a separate application from NEMA, all of which are currently live. Okay? Thank you, sir.

28:55

So again, can I, can I just clarify then there appears on the plan a parcel or a portion of the allocated site that is not subject to an application at the moment, which is the parcel immediately to the east of the safeguarded land to The North, at the southern end. It doesn't appear to be enclosed within a red edge. It's got a red edge on the north side and the east side, but not going around its western and southern boundaries. So am I right in interpreting that is yet to come forward?

29:34

Yeah, there's, there's further private ownership, land ownership within that area, which ships come forward as applications. Okay,

29:45

it would be helpful to know which applications are actually which party. I don't think we've had that.

29:55

So if I can assist with that, we can provide you with a plan that provides that do. Tom, thank you.

30:05

So on that basis, we assume that they've written and on the basis that they have a land interest in an allocation and are progressing planning applications as we speak, yeah, okay, thank you.

30:29

So the commentary in in this letter is that something that the applicant endorses do, forces,

30:49

if I can just introduce that and then pass down to Nathan drover, not entirely, insofar as in the second paragraph, there's a reference to a prerequisite for strengthening planning policy in relation to the forward funding approach, because our position is positioned as made clear, is that in relation to a four and a seven, where it's anticipated there will be section 106 agreements in place prior to the autumn of 2025 that is not conditional on a strengthening of the planning policy position as indicated earlier in one, six and seven, and the specific policies in SA one for four areas, four and seven are considered sufficient in respect of

32:01

that so with, but with that proviso, the remainder of the letter is agreed subject to Mr. Mr. Drova is going to say,

32:19

thank you. Nathan drove for the applicant? Yeah, I think I would agree with that interpretation. It was. It's effectively a collection of issues which, following months of negotiation, have come to the fore. So if you break it down, you have the forward funding approach that captures existing and future developments unlocked by the scheme. So that's a movement in our position. It's there on the basis of that their belief that planning policy position needs to be strengthened. And then, of course, sil is in their existing and future. SIL very important to the developers the need to deal with individual site specific characteristics, local mitigation and viability. So I can give you some examples. The some of

the developers having car free sites. Sorry, some of the developers to have car free, you know, development. So they're having mobility hubs with no on plot parking. So they're arguing that their traffic generation is lower. So there's very peculiar site specific issues. And then lastly, the phasing of developer funding over the build out of the contributing sites. They wanted to that recognized, but it's collectively, I think they were all happy to agree. And what we wanted to show that there was, there was broad alignment with the developers regarding an overall funding strategy. So that is all of the developers in a four and a seven, with the exception of part of a seven to the west, as you identified just now. And there's also a small site in a four to the east home farm, and they've already written in principle to not agree the methodology, but to agree. And I'll try and remember the exact words, they're agreeing a financial contribution towards m5 junction 10 scheme in line with the scale of the proposed development. So that they were, we didn't leave them off the letter intentionally, but they've already agreed. So that's another site outside 848, the existing developers on this list.

34:30

Okay, thank you. As the only signatory in the room, can I ask you for your view on the phrase that you've put in this letter, where it says we recognize that strengthening the planning policy position to support this is a necessary prerequisite. So what? What are you telling us with that statement? Do.

35:10

At Joe waters for broad homes and persimmon homes. I think it would be fair to say What that's referring to is that there's a need to draw in funding from developments outside of the main sites in the funding strategy. And to do that, would need a stronger policy position, such as the SPD that already referred to so

35:51

so you're not implying that the current allocations are not subject to the current policies, which require a contribution to meet the infrastructure needs of their scheme. I'm just trying to see why, exactly where you're coming from.

36:17

Thank you Tony Weston for blowing cement. No, that's not our position. I think our position remains as it previously has been, which is that our site a four is not dependent on the scheme coming forward, and there isn't that existing planning policy there in order to kind of justify the the contributions which have been sought, we but we do, in principle, support the scheme. I think we've always made that clear, including in our relevant representations, and we have been engaging and working with the applicant to try and agree a way forward in the absence of that policy, we we don't agree the funding methodologies which have been put forward by the applicant. But as Mr. Traver said, we have been engaging quite significantly over recent weeks in order to try and agree a way forward. I think I referred earlier in the day to the fact that we have made a without prejudice, offer to the applicant, which has been copied to the to the joint councils to try and agree a section 106 contribution which we would be happy to make on on certain terms and conditions in the absence of that kind of planning policy support, which just doesn't exist, in our view.

37:47

Okay,

37:50

I'll just see if there's anyone who wishes to respond to that before I come back to the applicant, any i

38:18

Yeah, Okay, I mean so yeah, Nick Bryant, for Tewkesbury, yeah, obviously we have received that, that letter towards the end of last week. Note, note, the contents, I mean, probably just worth reiterating the points that we've made previously around the decision making process as it relates to those planning applications. Excuse me, and we, we, we will kind of come back on that, but we're clearly not going to predetermine the planning application process or the the frame and section 106, or SIL for the reasons that we set out previously. So hopefully our separate letter sets out our position quite clearly on these points.

39:02

Thank you. And so I think I just finally come back to the applicant, see if there's any further response you'd wish to make,

39:14

no other than to reiterate the fact that there has been productive and useful dialog with those represented just to my right. I've got no additional comment, but that that is the factual position.

39:37

I think that concludes our questions for funding. So it seems to me, as it's five o'clock, it's probably an appropriate time to adjourn for the day and recommence in the morning on the DCO. So hopefully that doesn't cause anyone too much difficulty. And. And so it's five o'clock, we adjourn the hearing and look forward to seeing everyone tomorrow. Thank you for your contributions so far. You.