

# M5 Junction 10 Improvements Scheme

**Applicant Response to Interested Parties  
Deadline 5 Submissions**

**TR010063 - APP 9.84**

Rules 8 (k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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# Infrastructure Planning Planning Act 2008

## The Infrastructure Planning (Examination Procedure) Rules 2010

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

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#### Applicant Response to Interested Parties Deadline 5 Submissions

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# 1. Introduction

This document (TR010063/APP/9.84) provides the Applicant's response to submissions made by interested parties at Deadline 5 where it is considered that a response is required including:

- REP5-033 Gowling WLG (UK) LLP on behalf of Bloor Homes and Persimmon Homes Limited
- REP5-036 and REP5-037 Joint Councils
- REP5-039 National Highways
- AS-074 Stephen Savidge
- AS-075 Steven Iddles
- AS-079 House in the Tree
- AS-083 Mr Hadley

1.1.1. The Applicant acknowledges that D5 submissions were also made by Environment Agency (REP5-032), Henry Boot Development (REP5-034), Homes England (REP5-035) and St Modwen and Midlands Land Portfolio Limited (REP5-040) however, the Applicant considers a response is not required.

1.1.2. 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.

1.1.3. In order to assist the Examining Authority, the Applicant has not commented on every point made by Interested Parties, 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. REP5-033 – Gowling WLG (UK) LLP on behalf of Bloor Homes and Persimmon Homes Limited

ExAQ No.	Interested Parties Response	Applicant Response
Q1.3.1	<p>The Interested Parties do not consider that the Applicant has had regard to or considered sufficient alternatives to the proposed scheme. In particular, the Applicant appears to have only considered variations to an all-movements junction 10 scheme, rather than alternatives to a junction 10 scheme.</p> <p>Options that the Applicant should have considered include a limited southbound off-slip signalisation scheme at junction 10, combined with signalisation of junction 11, a mitigation scheme at the A40 Elmbridge Court roundabout (as envisaged by the JCS Infrastructure Delivery Plan) and a series of local road network mitigation schemes. The Interested Parties have tested these options and believe that a package of these works, or similar, could mitigate the impacts of the allocated sites A4 and A7, along with other growth in the JCS, subject to additional mitigation being identified by site A7 as part of its Transport Assessment. The Interested Parties are of the view that this would be considerably more cost-effective and easier to deliver.</p>	<p>Please refer to the Applicant’s response to Issue Specific Hearing 4 (ISH4) Action point 6 (TR010063/APP/9.85).</p> <p>Highway schemes included in the JCS Infrastructure Delivery Plan have been included in the traffic modelling used to assesses the impacts of the Scheme where they were considered near certain or more than likely to be implemented. As such, the JCS A40 Elmbridge Court Roundabout mitigation scheme is included in the traffic modelling for the Scheme under all scenarios.</p> <p>An option similar to the one described by the Interested Party was tested and rejected (Option DS6a) as part of the traffic modelling and assessment undertaken for the JCS and reported in the JCS Transport Strategy Evidence Base (REP3-049).</p> <p>The modelling assumptions for this DS6a iteration were as follows:</p> <ul style="list-style-type: none"> <li>• M5 J10 would remain as current arrangement i.e. not all movements</li> <li>• Access to the West of Cheltenham site to be from the direction of J11 of the M5, with direct slip roads assumed to the site on the A40 Golden Valley, east of M5 Junction 11.</li> </ul> <p>Traffic modelling for Option DS6a found that it would result in unacceptable queuing on the M5 mainline and off-slip roads, as well as on the A40 Golden Valley Bypass eastbound on-slip, east of M5. There were also a greater number of junctions on the rest of the highway network experiencing delays.</p>

ExAQ No.	Interested Parties Response	Applicant Response
Q5.0.1	<p>The Interested Parties note that the scheme has been added or will be added to the infrastructure which could be funded from CIL receipts. The Interested Parties understand that this will have no impact on funding in respect of compulsory acquisition of land for the scheme as the Applicant has indicated that compulsory acquisition costs will be funded from the Homes England grant. The Applicant has however indicated that CIL could be used to fund the shortfall in the scheme's construction costs.</p> <p>The Interested Parties agree that the use of CIL funding towards the scheme is appropriate and, indeed, the Interested Parties have previously indicated to the Applicant that the scheme should be funded from CIL and not from s106 contributions (in this respect, it should be noted also that developments should not be required to pay both CIL and a s106 for the same infrastructure).</p> <p>It is understood from the Applicant's Funding Technical Note [REP4-044] that the LPA currently holds £15m in CIL funds and that it is expected that more than £20m will flow from upcoming developments. The amount of this funding which could be utilised for the scheme (as opposed to the other infrastructure which the LPA has committed to deliver through CIL) is unknown, but it is possible that the monies currently held by the LPA could be used to forward fund the scheme.</p> <p>In addition, funding through CIL rather than s106, could provide greater certainty as to the timing of funding given that payments would be required on commencement of each chargeable development</p> <p>The use of CIL would further secure consistency as to the amount of contribution payable towards the scheme by each individual development (not being subject to other factors including, for instance, viability) and would provide consistent methodology for seeking contributions from the safeguarded land or from unknown future growth.</p>	<p>Please see the Applicant's updated Funding Statement (REP6-005) submitted at Deadline 6.</p>

ExAQ No.	Interested Parties Response	Applicant Response
Q5.0.16	<p>(i) N/A</p> <p>(ii) Bloor Homes confirms that it remains concerned about the potential for a ransom strip. Whilst it welcomes the Applicant's confirmation that the highway boundary is proposed to be contiguous with the land plots that front onto the north side of the A4019, there remains the potential for a ransom strip from the proposed Tewkesbury Road junction to the boundary of the land in Bloor's control, including in respect of whether it would be of a sufficient width to enable a road to be provided in the future. Confirmation is sought from the Applicant as to how these concerns will be addressed and how a commitment will be secured from the Applicant to ensure that, post making of the DCO, the Applicant does not create a ransom strip and the landowner will not be placed in a worse position than it currently enjoys.</p> <p>(iii) Notwithstanding the Applicant's response to ExQ1.1.8, it is unclear how the landowner will be in the same position as currently i.e. where a future planning application could include an improved access onto the A4019 within the section of frontage within their control. It is not known to what extent, if any, the Applicant has tested this, given that if the scheme is delivered then the highway arrangement and traffic usage along the A4019 will be materially different to as it is currently. Bloor Homes would welcome clarity on this from the Applicant.</p> <p>Given the above, Bloor Homes has undertaken its own work and believes that an alternative access scheme could be capable of being implemented to provide access to the safeguarded land post construction of the scheme (see appended plan). This alternative access scheme was submitted to the Applicant, as highway authority, for preapplication consultation. It was indicated at the hearings in August that a response to the submission would be provided by the end of August but, as yet, no response has been received. It is not clear whether in responding to ExQ1.1.8 the Applicant is referring to this scheme or to another scheme.</p> <p>(iv) N/A</p>	<p>Please see the Applicant's response to Action Point 8 in the Applicant's Written Summary of its Oral Case for Issue Specific Hearing 4 (ISH4), submitted at Deadline 7.</p>

ExAQ No.	Interested Parties Response	Applicant Response
Q5.0.17	<p>(i) Bloor Homes and the landowner would welcome confirmation from the Applicant as to the basis of compensation payable to ensure that equivalence is achieved.</p> <p>(ii) Bloor Homes and the landowner would again welcome a response from the Applicant on this point.</p> <p>(iii) N/A</p>	<p>(i) The Applicant can assure Bloor Homes and the Landowner that compensation will be considered in line with the compensation code. This would reflect the market value of the land and actual losses directly resulting from the Scheme.</p> <p>(ii) The Applicant is not aware of the detailed contractual terms between Bloors and the Landowner and is therefore unable to comment.</p>



### 3. REP5-036 – Joint Councils

ExAQ No.	Interested Parties Response	Applicant Response
<p>Q9.0.1 and Q9.0.2</p>	<p>The following comprises the Joint Councils' combined response to Q9.0.1 and Q9.0.2:</p> <p>The vacant post has been filled and Vanessa Clarke has been in post since 2nd 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 1st 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 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/2nd 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</p>	<p>Consultations with the new County Archaeologist have been conducted and raised a concern regarding the need for additional geophysical surveys to inform the ES. The Applicant maintains that the assessment work done for the ES is sufficient for decision-making and that the controls of the AMP [AS-038] will ensure appropriate treatment of as-yet unknown archaeological remains.</p> <p>The AMP [AS-038] is designed to serve as a control for the process of archaeological identification, assessment and recording and does not require the results of investigations to be included to act as such a control.</p> <p>The Applicant recognises that the language regarding monitoring is unclear; it is the monitoring of the implementation of the AMP [AS-038] that is done by the Archaeological Consultant and LPA Archaeological Advisor. The archaeological monitoring of the construction activities, under an appropriate Project Design, would be done by an archaeological contractor/ Registered Organisation (RO) under the Chartered Institute for Archaeologists (CIfA).</p> <p>With regards to comment from the Joints Councils on the response from Historic England to ExAQ [REP3-072], it is not the Applicant's understanding that this is Historic England's position following SOCG engagement. The Applicant will seek to confirm this in an updated SoCG by Deadline 10.</p> <p>The Applicant can confirm the appointed heritage consultant will be a commercial archaeological contractor that is a Registered Organisation with the Chartered Institute of Archaeologists.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>require as a minimum the additional geophysical survey to have been completed and reported upon).</p> <p>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.</p>	
Q11.0.1	<p>(i) For the Applicant to respond.</p> <p>(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</p>	<p>(i) The Applicant responded to this item in its response to ExAs 2nd WQs [REP5-027].</p> <p>(ii) The Applicant confirms that the LVIA assessment (ES Chapter 9, para 9.15.9 [REP1-016]) assumes the noise barriers comprise a 2m high barrier of non-specified material that could be a simple timber board design. No enhancement to visual amenity has been assumed in the assessment. To assist in the clarification of</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p>be provided. There appears to be some ambiguity in this regard.</p> <p>(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.</p> <p>(iv) For the Applicant to respond.</p>	<p>this the Applicant has updated ES Chapter 9 (para 9.15.9) to confirm that the LVIA assessment is based on the noise barriers being a simple timber board design. The Applicant has submitted an updated ES Chapter 9 at Deadline 7.</p> <p>(iii) Response provided against Action Point 34 in the Applicant's written summary to ISH4 (ref. APP 9.83).</p> <p>(iv) The Applicant responded to this item in response to ExAs 2nd WQs [REP5-027].</p>
Q12.0.2	<p>(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 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>	<p>Regarding the provision to mitigate the effects of construction noise, details are presented in the Noise and Vibration Management Plan (NVMP) 1<sup>st</sup> iteration [AS-033]. These include a range of measures, and not just temporary re-housing or noise insulation.</p> <p>Regarding the request from the Joint Councils to input to or consult with a 'Noise Mitigation Strategy', the Applicant has produced a Noise and Vibration Management Plan (NVMP) 1<sup>st</sup> iteration [AS-033]. This 1<sup>st</sup> iteration plan will be updated in advance of construction to produce a 2<sup>nd</sup> iteration plan, as detailed in REAC item NV1 [REP4-018]. As per DCO requirement 3(1) [REP4-012] the 2<sup>nd</sup> iteration plan will be prepared in consultation with the relevant planning authority, county planning authority and the strategic highway authority.</p>
Q16.0.2	<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</i></p>	<p>The Applicant welcomes the agreement from the Joint Councils that all the works are considered as Essential Infrastructure and should be considered in the same vulnerability classification.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p><i>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> <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> <p><i>remain operational and safe for users in times of flood;</i></p> <p><i>result in no net loss of floodplain storage;</i></p> <p><i>not impede water flows; and</i>• <i>not increase flood risk elsewhere.</i></p> <p><i>Essential infrastructure in this zone should pass the Exception Test. Essential infrastructure under the NPPF classification:</i></p> <p><i>Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.</i></p> <p><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></p> <p><i>Wind turbines.</i></p> <p><i>Solar farms.</i></p> <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</i></p>	<p>The FRA [REP5-008] considers the entire Scheme being the Junction works, A4019 improvements and the Link Road as Essential Infrastructure as defined for the NPPF. As such its presence in Flood Zone 3a and 3b is acceptable subject to the Scheme passing the Exception Test. The Scheme is then shown through the FRA [REP5-008] to pass that Exception Test.</p>

ExAQ No.	Interested Parties Response	Applicant Response
	<p><i>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>	

ExAQ No.	Interested Parties Response	Applicant Response																																			
	<p><b>Table 2: Flood risk vulnerability and flood zone ‘incompatibility’</b></p> <table border="1" data-bbox="376 395 1079 917"> <thead> <tr> <th data-bbox="376 395 443 486">Flood Zones</th> <th data-bbox="443 395 600 486">Flood Risk Vulnerability Classification</th> <th data-bbox="600 395 712 486">Essential infrastructure</th> <th data-bbox="712 395 824 486">Highly vulnerable</th> <th data-bbox="824 395 936 486">More vulnerable</th> <th data-bbox="936 395 1048 486">Less vulnerable</th> <th data-bbox="1048 395 1160 486">Water compatible</th> </tr> </thead> <tbody> <tr> <td data-bbox="376 582 443 614">Zone 1</td> <td data-bbox="443 582 600 614"></td> <td data-bbox="600 582 712 614">✓</td> <td data-bbox="712 582 824 614">✓</td> <td data-bbox="824 582 936 614">✓</td> <td data-bbox="936 582 1048 614">✓</td> <td data-bbox="1048 582 1160 614">✓</td> </tr> <tr> <td data-bbox="376 630 443 694">Zone 2</td> <td data-bbox="443 630 600 694">✓</td> <td data-bbox="600 630 712 694"></td> <td data-bbox="712 630 824 694">Exception Test required</td> <td data-bbox="824 630 936 694">✓</td> <td data-bbox="936 630 1048 694">✓</td> <td data-bbox="1048 630 1160 694">✓</td> </tr> <tr> <td data-bbox="376 742 443 805">Zone 3a †</td> <td data-bbox="443 742 600 805">Exception Test required †</td> <td data-bbox="600 742 712 805">X</td> <td data-bbox="712 742 824 805"></td> <td data-bbox="824 742 936 805">Exception Test required</td> <td data-bbox="936 742 1048 805">✓</td> <td data-bbox="1048 742 1160 805">✓</td> </tr> <tr> <td data-bbox="376 853 443 917">Zone 3b *</td> <td data-bbox="443 853 600 917">Exception Test required *</td> <td data-bbox="600 853 712 917">X</td> <td data-bbox="712 853 824 917">X</td> <td data-bbox="824 853 936 917">X</td> <td data-bbox="936 853 1048 917"></td> <td data-bbox="1048 853 1160 917">✓ *</td> </tr> </tbody> </table> <p data-bbox="376 949 443 981">Key:</p> <p data-bbox="376 997 683 1029">✓ Exception test is not required</p> <p data-bbox="376 1045 750 1077">X Development should not be permitted</p> <p data-bbox="347 1101 1220 1284">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		✓ *	
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		✓ *																															

## 4. REP5-037– Joint Councils

Reference No.	Interested Parties Response	Applicant Response
037-01	<p><u>Cumulative Effects Assessment Technical Note [REP4-034]</u></p> <p>The Joint Councils have reviewed [REP4-034]. The Joint Councils' position at D5 is that further discussion between the Joint Councils and the Applicant on the content of the Technical Note is required. The Joint Councils will have to liaise and discuss/agree with the Applicant the need for inclusion of the identified sites.</p>	<p>The Applicant has clarified matters with the Joint Councils in an exchange of emails and it is considered that this matter is now resolved.</p>
037-02	<p><b>Statement of Common Ground (SoCG) with the Applicant</b></p> <p>The Applicant's SoCG Joint Councils [REP4-022] submitted at D4 reflects the latest position of the SoCG between the Joint Councils and the Applicant. The Joint Councils would like to reiterate their position in support of the Scheme in principle and will continue the discussions of outstanding matters with the Applicant during the Examination to work towards agreement wherever possible.</p>	<p>The Applicant continues to discuss the outstanding matters with the Joint Councils (namely Withybridge underpass, geophysical surveys, funding and traffic modelling) since the SoCG was submitted at Deadline 4 (REP4-022) and an updated (final) SoCG will be submitted to the ExA at by deadline 10.</p>
<p><b>Appendix: Table 2 – Joint Councils' Comments on the Applicant Response to Interested Parties D3 Submission [REP4-036]</b></p>		
037-03	<p><b>Joint Councils' Comments on the Documents on Landscape Visualisations Viewpoints [REP2- 003, REP2-004, REP2-005, REP2-006 and REP2-007]</b></p> <p>Thank you for this information. The Joint Councils understand, but would like to note, that the LVIA chapter, particularly Appendix 9.2 LVIA Chapter Assessment Table [APP-144], assumes that the barrier fence would be designed for enhanced visual amenity. We also refer to SoCG Joint Councils [REP4-022], which states: "Position: On all occasions, these matters were agreed during a meeting between technical specialists. The</p>	<p>The LVIA assumes a timber barrier as per the visualisations. The LVIA assumes that the plain barrier or alternative finish will be agreed with the affected receptors but does not assume what that final design will be above the baseline case of simple timber panels (as representative of the reasonable worst case assessed).</p> <p>At the time of the LVIA, full consultation with all affected receptors was not possible thus assumptions of the base case had to be made.</p> <p>It is considered that the final design of each individual barrier will be confirmed during detailed design. meaning that some betterment</p>

Reference No.	Interested Parties Response	Applicant Response
	<p>Joint Councils now understand that the assessment assumes residents will have input into the barrier's design. There is room for climbing plants to create an attractive screen within the first year. The Joint Councils agree with these matters, subject to detailed design and commitments made in the REAC."</p> <p>It was our understanding that the LVIA assessment was based on providing a better visual amenity solution than a standard timber barrier. We would like to question the disparity between the visualisations and the assessment. It appears that the visuals are based on the worst-case scenario, whereas the assessment assumes a better visual amenity outcome is possible. If a commitment cannot be made to the proposed treatment of the barrier, the assessment should be based on the worst-case scenario. The appearance of the barrier fence is material to the application and is likely to have noticeable effects on some visual receptors. It is difficult to see why a mitigation treatment cannot be proposed at this stage.</p>	<p>against the assumptions of the ES could be realised. However, as the details of this are undetermined and not secured, the Applicant considers that its position of taking the reasonable worst case scenario is the most appropriate.</p>
037-04	<p><b>LIR Ref 3.9.24 Population and Human Health</b></p> <p>Clarification on the 'dual function' (day and night) is appreciated. The Joint Councils will need to be updated on the outcome of the lighting review for question (1). Wayfinding, to be included in the detailed design is acknowledged for question (2) and addresses those concerns. Ongoing consultations with WCH groups should continue and is appreciated.</p>	<p>The 'dual function' referred to in the Applicant's response to the Local Impact Report [REP2-009] item 3.9.24 refers to the design of the underpass to provide two uses, namely as an access route for bats across the A4019 (the nighttime function); as a traffic free route for WCH users to cross the A4019.</p> <p>It is expected that the use of the underpass by WCH users would be principally a daytime use as the bridleway (AUC1) which has been routed through the underpass is expected to have more users during the daytime. The underpass does not preclude nighttime use of the underpass by WCH groups.</p> <p>Lighting considerations and wayfinding will be addressed at detailed design stage.</p>



## 5. REP5-039 – National Highways

ExAQ2 No.	Interested Parties Response	Applicant Response
<b>National Highways response to Examining Authority's Second Written Questions</b>		
Q5.0.3	<p><b>Funding</b></p> <p>National Highways position remains as stated during ISH3 and at Deadline 4 [REP4-049] until such time as evidence is provided by the Applicant showing full funding has been secured prior to start of construction for the full scheme.</p> <p>The first step in National Highways gaining confidence in the level of funding secured for the scheme, is for National Highways and the Applicant to agree a cost estimate. National Highways are currently reviewing information provided by the Applicant in respect of their estimate. (please refer to the response to Q5.0.9 below)</p> <p>National Highways would be prepared to consider confirmation of funding for certain elements of the scheme, rather than the full scheme, (namely the SRN and A4019 elements), if the construction programme and funding were aligned to be sequenced in such a way that the SRN elements are constructed first, followed by the A4019 improvements then the Link Road into West Cheltenham.</p>	<p>The Applicant is in discussions with National Highways and will continue to work together to provide confidence in the Scheme cost estimate.</p> <p>Likewise, the Applicant welcomes National Highways' willingness to consider funding only for those elements of the Scheme relevant to the SRN. The Applicant will work with National Highways as construction sequencing develops and the Notice to Proceed with National Highways can reflect this.</p>
Q5.0.4	<p><b>Funding</b></p> <p>Protective Provisions alone would not provide the assurances sought by National Highways. Subject to an estimate being agreed, as detailed in Q5.0.3 and Q5.0.9, National Highways would want to see confirmation of funding, or elements of funding, as also detailed in response 5.0.3 before any construction activity was to begin.</p>	Please see response to Q5.0.3 above.

ExAQ2 No.	Interested Parties Response	Applicant Response
Q5.0.9	<p><b>Funding</b></p> <p>National Highways continue to seek to understand the difference between the Applicant's cost estimates as referred to in the Funding Statement[APP-036] and our high-level review discussed at ISH3 and within our Deadline 4 submission on 3 September 2024 [REP4-049].</p> <p>In response to the proposed methodology outlined in the National Highways response to Deadline 3 [REP3-075] the Applicant has supplied National Highways with a pack of data to enable National Highways to commence a review of the Applicant's cost estimate without breaching commercial sensitivities. This was received on 25 September 2024 meaning that the National Highways team have had insufficient time in advance of Deadline 5 in order to form a view as to whether the differences between the estimates are resolvable.</p> <p>It is anticipated that this exercise will take a period of weeks resulting in the National Highways team being unable to comment in any level of detail at the ISH4 hearings planned for 13/14 October 2024. We expect to be able to provide an update for the next written deadline on 30 October 2024 and will continue to engage with the Applicant during this period. Should a resolution be reached sooner, National Highways will provide an additional out of deadline submission to the ExA at the earliest opportunity.</p> <p>In respect to the approach that National Highways have adopted, an Order of Magnitude assessment based on a high-level appraisal of the Scheme has been undertaken using the Development Consent Order submission documentation as provided by the Applicant. This estimate has been produced as if it was a National Highways scheme and, therefore, includes aspects that require clarification from the Applicant in terms of assumptions that National Highways have made since these assumptions may not be applicable to this Scheme.</p>	Please see response to Q5.0.3 above

ExAQ2 No.	Interested Parties Response	Applicant Response
	<p>With the information received, National Highways will now be in a position to refine and review the cost estimate in a more detailed manner with the Applicant to assess the assumptions/rationale. This will allow for the identification of the key differences between the Applicants and National Highways estimate. For example, how aspects such as inflation have been calculated. This exercise will take a period of time to complete, as outlined above, and as such are unable to endorse the Applicant's estimate and continue to hold objections regarding the project funding.</p> <p>Therefore, National Highways are of the opinion that an itemised list setting out calculations offers limited value until these assumptions are understood and verified given the discrepancies between the approach to the estimates. Based on discussions with the Applicant, we are confident that both parties can progress this during the Examination period.</p>	
Q15.0.2	<p><b>Transport Modelling</b></p> <p>National Highways have previously raised concerns in respect of how the outputs from the transport modelling have been utilised in determining the most appropriate intervention. In REP3-075 in response to Q1.3.1 National Highways advised that they were unable to comment on partial improvements to M5 J10. Whilst on page 16 of REP4-049 National Highways highlighted <i>"the JC document does not prove that the only way to address those impacts is a major scheme intervention, and even if a major scheme intervention was required, the document does not evidence that the application scheme is the only, or correct, solution."</i></p> <p>For a typical SRN scheme National Highways will develop the solution through an iterative process, gradually refining and developing the solution as a result of data received. That data typically includes information on safety matters, environmental constraints, stakeholder contributions, engineering requirements as well as forecasts based on transport modelling.</p>	Please refer to the Applicant's response to Issue Specific Hearing 4 (ISH4) Action point 6.

ExAQ2 No.	Interested Parties Response	Applicant Response
	<p>In all instances, the iterative process to develop an appropriate solution seeks to adhere to the principles of minimising adverse impacts whilst meeting the project objectives. For transport modelling, this will typically look to understand how traffic movements are catered for by the solution, challenging aspects such as capacity, demand, movements, and growth. For example, the design of the slip roads on or off the SRN is determined by factors such as the volume of traffic joining/leaving the mainline carriageway in combination with the expected flow on the mainline to ensure that the nature and scale of the design is safe and appropriate leading to a good design that provides a level of operational efficiency for the project.</p> <p>In a similar manner, the form of the all-movement junction is dictated by the need to understand the constraints, traffic and safety considerations. National Highways concern is that we are unsighted on the evidence base to support the determination of the need and form of the junction itself. As detailed above, a process is followed whereby data is assessed to develop options that fulfil the requirements of the objectives; it may be that some options/solutions perform better than others in terms of the operational performance; but what is unclear and has not been presented are the mechanisms by which the full movement junction, as submitted to the DCO, was determined as being the optimum outcome.</p> <p>Reference has been made to the JCS by the Applicant in support of the need for an all-movement junction, but those documents are silent on the process to confirm the means by which the design that is submitted to the DCO was determined. For a typical National Highways scheme that iterative process would be documented in the following documents at the appropriate PCF stage in line with DMRB TD37/93:</p> <p>PCF Stage 0 - Feasibility Study          PCF Stage 1 - Technical Appraisal Report          PCF Stage 2 - Scheme Assessment Report</p>	

ExAQ2 No.	Interested Parties Response	Applicant Response
	PCF Stage 3 - Route Development Report (or similar to support the Environmental Statement/Environmental Impact Assessment)	

**National Highways response to documents submitted at Deadline 4**

Reference No.	Interested Parties Response	Applicant Response
039-01	<p><b>National Highways position</b></p> <p>National Highways has been working with the Applicant on resolving concerns with the SATURN traffic modelling. Initial work, in the form of a sensitivity test on the base model, undertaken by the Applicant has been positive in providing some comfort to National Highways. National Highways are now content with the base model and have requested the sensitivity test is carried out on the scenario models (do-minimum and do-something) to ensure there is no material change to those or any consequential impacts on the PARAMICS modelling. Once this work has been carried out by the Applicant, National Highways anticipate making an additional out of deadline submission to the ExA setting out our position in relation to the traffic modelling work prior to ISH4 taking place.</p> <p>To confirm, National Highways continues to support the principle of a scheme of improvement works at Junction 10 of the M5 motorway. However, the DCO application still contains insufficient information for National Highways to support the current application scheme and therefore National Highways objects to the DCO and the Authorised Development in its submitted form on a protective basis.</p>	<p>The sensitivity test, reported in Traffic Modelling Sensitivity Test Technical Note (AS-078), has demonstrated that adjusting the west/northbound journey times on the A4019 in the strategic traffic modelling such that they meet the TAG validation criteria does not materially alter traffic flows across the road network in the base year models nor the forecast year models. Thus, the traffic modelling supporting the DCO is fit for purpose and therefore, the assessment of the scheme, which is based on the traffic modelling, is robust.</p> <p>National Highways has confirmed in its Additional Submission, accepted at the discretion of the ExA, (AS-077) that it is content with the traffic modelling that supports the Scheme and National Highways is therefore removing its objection to the M5 Junction 10 DCO Application in relation to the SATURN and PARAMICS traffic modelling in principle.</p>

## 6. AS-074 – Stephen Savidge

Reference No.	Interested Parties Response	Applicant Response
074-01	<p>I have been made aware that there are plans to restrict the width of the road in Stoke Orchard at two points to try and slow the traffic during the M5 Junction 10 improvement scheme.</p> <p>They seem to have forgotten that this is still a productive agricultural area. I have 350 acre's of arable land in and around Stoke Orchard and need access to this land with large agricultural machinery. My Combine Harvester is 3.4 metres wide. Banady Lane in the center of the village is my only access to part of my agricultural holding. Please can you consider this when making plans to impose traffic calming in Stoke Orchard village.</p>	<p>The Stoke Orchard traffic calming scheme is not part of the Scheme. It is being developed and delivered separately by GCC as highway authority.</p> <p>The Applicant has liaised with the project team developing the Stoke Orchard scheme and has been informed that the current stage of preliminary design envisages a speed limit reduction through Stoke Orchard from 30mph to 20mph. This proposed speed limit reduction would be supplemented by a series of traffic calming measures, designed at improving compliance.. The proposed traffic calming measures within the 20mph limits include the installation of localised build-outs either side of the main built up area of the village that would make traffic entering the main populated area of the village slow down to give-way to traffic leaving the village. Whilst the design of the build-outs reduce the width of the road to single lane they are not designed to restrict the type of vehicle using the road. The Applicant understands that the Scheme is currently commencing a detailed design phase. It has liaised with GCC as highway authority to bring this matter to their attention as part of their review .</p>

## 7. AS-075 – Steven Iddles

Reference No.	Interested Parties Response	Applicant Response
075-01	<p>I wish to express my concerns with regards to the M5 Junction 10 Improvements Scheme and how this will affect my business.</p> <p>The forge, 'Distinctive Ironwork' has been a working forge and established family business for over 50 years [redacted] with majority of work coming from passing trade and with the plans for this scheme I am at extreme high risk of losing my business due to the new road layout of this scheme outside [redacted] business. Not only will the view from passing cars be restricted by boards and bushes, the proposed access road could restrict delivery vehicles/HGVs from accessing my property and ability to turn around.</p> <p>I am also concerned how this scheme will affect the value of my land, property and business now, during the work period and after.</p> <p>I also wish to express my concerns regarding flooding....my property has been flooded badly in the past from the rise of the water table and run off of water from the road, fields opposite and behind, what defenses are being put in place to prevent flooding</p>	<p><b>Engagement</b></p> <p>The Applicant notes the concerns raised regarding the potential impact of the Scheme on the property. The Applicant has arranged meetings to discuss these concerns and how the compensation code that would apply in respect of any compensation.</p> <p>The Applicant met with the IP on 18 Oct 2024 to discuss concerns relating on signage and width of service road. The Applicant will be responding directly with the IP with further information.</p> <p><b>Flood Risk Assessment</b></p> <p>The Flood Risk Assessment [AS-023] describes the impact of the Scheme on flood risk. The Scheme is demonstrated to have no impact on flood risk in the vicinity of Distinctive Ironwork. Flood risk to the property will be unchanged. However, new roadside drainage ditches will help intercept local runoff and direct it away from the properties in your area.</p> <p><b>Population and Human Health assessment</b></p> <p>The impacts to people and property have been assessed in the Population and Human Health Assessment within the Environmental Statement [REP3-022]. The assessment follows an established methodology to consider the impacts of the Scheme on a number of different types of receptors and takes a 'population-scale' perspective to the consideration of effects – essentially this means that the assessment methodology is not intended to consider individual premises on a case by case basis. Notwithstanding this, there are instances where professional judgement may lead to the assessment</p>

Reference No.	Interested Parties Response	Applicant Response
		<p>exploring effects on small geographic clusters, or clusters of receptors that have shared characteristics.</p> <p>Within the Population section of the assessment [REP3-022], the property and business premises referenced (a single location) appears within the summary of receptors that have been considered. Table 13-10 lists these receptors – they include ‘Properties adjacent to M5 and Withybridge Lane, south of Junction 10 and south of A4019 (&lt; 30 residential)’ within the private property and housing category; and ‘Distinctive Ironwork’ as a named receptor within a fuller listing of development land and businesses.</p> <p>The Population construction assessment for the relevant residential cluster is reported in Table 13-11 (p87-88) and the Population construction assessment for the business premises is reported in Table 13-15 [REP3-022] (p 140-141).</p> <p>The Population construction phase assessments of the residual effects on the residential cluster and the business cluster are slight adverse, which is not significant. Both conclusions rely on specific essential mitigation, which commits that the Project Liaison Officer (PLO) will engage directly with property owners and affected business owners, as follows:</p> <p><i><u>Property owners</u> - PLO to prioritise direct liaison with owners/occupants of residential receptors anticipated to experience direct impacts on access during the construction phase, to ensure that suitable access and egress to their property is available at all times during the construction phase. Relates to Cooks Lane, Homecroft Drive and Appleyard Close (north) (refer to mitigation ref. PHH11).</i></p> <p><i><u>Business owners</u> - PLO to prioritise direct liaison with owners/lessees of business premises anticipated to experience direct impacts on access during the construction phase, to ensure that suitable access</i></p>



Reference No.	Interested Parties Response	Applicant Response
		<p><i>and egress to their property is available at all times during the construction phase, for all relevant business activities (i.e. staff and patron access, deliveries and servicing) (refer to mitigation ref. PHH12).</i></p> <p>The Human Health section of the assessment [REP3-022] explores the way in which the Proposed Scheme is considered likely to have impacts on determinants of health and, in turn, how these impacts may result in effects on specific receptors. The definition of receptors that have been assessed include ‘residents of properties at Uckington, Moat Lane and Cooks Lane’ (Table 13-47 p220 [REP3-022]), categorised as being of high sensitivity to change; and ‘Employers and employees to businesses adjacent to the A4019 (including...[...] Cooks Lane businesses)’ (Table 13-47, p228/9 [REP3-022]), also categorised as being of high sensitivity to change.</p> <p>The Human Health construction assessment for the relevant residential cluster is reported in Table 13-50 (p271-274) and the Human Health construction assessment for the business premises is reported in Table 13-54 (p333-336). Both assessments consider the premises mentioned in the representation as part of small clusters, encompassing the nearest neighbours who rely on the same main access routes. The Human Health construction phase assessment of the residual effects on the residential cluster considers changes to access and landscape amenity. It concludes moderate adverse residual access effects; and very large adverse residual landscape amenity effects – both of these are considered significant, albeit also noted as temporary, indirect and reversible or evolving (i.e. removed or substantially reduced once the Scheme is operational).</p> <p>The assessment also relies on specific essential mitigation:</p> <p><i>Property and business owners - Weekly bulletins and feedback loop to respond to community concerns. Ensure that PLO communications include targeted information about how communities can move</i></p>

Reference No.	Interested Parties Response	Applicant Response
		<p><i>around to minimise disruption; and that there is an effective mechanism for PLO to generate change in the Scheme in response to feedback once construction is underway, through the Compensation Event procedure (refer to mitigation ref. PHH4, PHH9 and PHH13).</i></p> <p><i>PLO to prioritise direct liaison with residents anticipated to experience direct impacts on access during the construction phase, to ensure that suitable access and egress to their property is available at all times during the construction phase (refer to mitigation ref. PHH11); and with business owners/lessees of business premises to ensure that suitable access and egress to their property is available at all times during the construction phase, for all relevant business activities (i.e. staff and patron access, deliveries and servicing) (refer to mitigation ref. PHH12).</i></p> <p><i>Targeted engagement with local residents along A4019 to influence construction sequencing and any additional mitigation measures (for landscape amenity, noise and air quality as well as access), which may evolve once the Scheme is under construction (refer to mitigation ref. PHH16).</i></p> <p><i>Provide temporary signalised crossing facilities on the A4019 at Uckington during the construction phase, as part of the traffic management plan (refer to mitigation ref. PHH5).</i></p> <p><i>Minimising vegetation loss. Approach includes for detailed design process to seek to further reduce habitat loss and vegetation loss (refer to mitigation ref. B6 and LV2).</i></p> <p><i>In the operation of the Scheme both the Population and the Human Health assessments for this receptor group show beneficial effects for access.</i></p>

## 8. AS-079 – House in the Tree

Reference No.	Interested Parties Response	Applicant Response
	<b>Negotiations Update</b>	
079-02	In general negotiations continue to be slow and protracted on account of a lack of meaningful and timely engagement by the Applicant; it remains our opinion that the Applicant is highly focused on the promotion of the dDCO which is to the detriment of private treaty negotiations.	<p>The Applicant believes significant progress has been made following Compulsory Acquisition Hearing 1 with continued engagement regarding voluntary agreement terms. Whilst the Applicant has reviewed the terms which have been proposed unfortunately it remains of the opinion that a number of points are unacceptable and unreasonable. Whilst it remains the Applicant's intention to acquire by voluntary agreement where possible, as can be evidenced by the extensive acquisition and agreement it has secured to date, the Applicant is not obligated to accept any terms proposed. It is unreasonable to expect the Applicant to simply accept the terms proposed. The Applicant responded to the proposed terms within a meeting held on the 10th September and responded to the action points raised on the 10th October after further consideration, with further exchanges of emails following. The action points included aspects such as changes to the Scheme design to mitigate disruption which do require thorough consideration within the wider context of the Scheme, This includes aspects raised within the House in the Trees submission, for which further information has been provided below:</p> <p>The utilities works to be undertaken are described in draft DCO schedule 1 and the locations are shown on sheet 16 of the works plan, and in summary are:</p>
	<b>Permanent and Temporary Land Acquisitions and Possessions</b>	
079-03	In view of the defective and ineffective approach to negotiations being led by the Applicant's representative, it was agreed on 14th August 2024 that Gateley Hamer (on behalf of the Landowner and Occupier) would prepare draft Heads of Terms (dHoT) to address compensation matters for the permanent acquisition and temporary possession plots for consideration by the Applicant (attached to which would ultimately be an agreed licence for temporary possession of land that would be prepared by the Applicant). Subject to relevant approvals from all parties, these documents would form the basis of a tri-partite legal agreement.	
079-04	On this basis, Gateley Hamer sent compensation code compliant dHoT to the Applicant's representative on 4th September and a meeting was then held to go through the proposal on 10th September. Post meeting Gateley Hamer circulated a list of actions, which have been resolved as far as possible by Gateley Hamer; our only outstanding action is contingent on a reply from the Applicant. Meanwhile, several significant actions remain outstanding on behalf of the Applicant, as is a response to the dHoT issued and a draft version of the licence for temporary possession. There	

Reference No.	Interested Parties Response	Applicant Response
	has essentially been no meaningful progress from the Applicant in 4-5 weeks.	(a) the diversion of 459 metres of water pipeline in the B4634 (work no. 14)
079-05	Whilst not previously brought to the ExA attention, it is perhaps worth mentioning that the Applicant has managed to circulate a survey licence agreement, this was received on 20th September and was returned by us with comments on 23rd September. This matter therefore also sits with the Applicant awaiting a response before it can be progressed.	(b) the diversion of 68 metres of electric cable and associated apparatus and equipment (work no. 25)  (c) the diversion of 485 metres of telecommunication cable and associated apparatus and equipment (work no. 34)
079-07	The Applicant advises it has every intention of committing to voluntary negotiations and this is welcome. However, the Applicant has had over 2 years to progress this so the ExA should not take any comfort from this statement, especially considering that 4-5 weeks on from submitting a fully compensation code compliant proposal to the Applicant's representative (and sitting down to meet with them) we still await any sort of meaningful response. The examination closes in approximately 2 months and there is much still to agree in what is now a short space of time. There appears then to be a disconnect between what the Applicant says and what it does.	The Applicant understands that the principal concern relates to a desire to have clear understanding for periods of disturbance as a result of the above works. A detailed construction programme is currently being developed and the Applicant has agreed to meet with the Occupier to further understand their concerns and provide reassurance that a programme of works can be designed to mitigate disturbance to ongoing business operations. The level of detail which the Applicant currently has is normal for a project of this kind, at its current stage of consent. The Scheme is currently still in preliminary design stage, with detailed design not having been complete. Being able to confirm precise details regarding the timing, sequence and programming of specific works has not been something that the Applicant has been able to confirm. It is within this context that the Applicant has been seeking voluntary agreement and continues to engage with a view of seeking to minimise disruption of the occupiers ongoing business activities. Whilst the Applicant wishes to deliver the Scheme with the minimum disruption to the House in the Tree, the Applicant does not believe the terms proposed by House in the Tree for a voluntary agreement which significantly limits the timing for delivery of the Scheme are reasonable. The offer provided by House in the Tree to date includes absolute limitations to the timings of works or improvements to compensation beyond the compensation code.
079-08	The Applicant goes on to advise that it has been challenging to provide the detail that the Landowner and Occupier are requesting. This is unfortunately but not a matter either have a great deal of little sympathy for – if the Applicant cannot provide some fairly elementary details such as: (i) an outline of utilities works to be undertaken, and (ii) an outline program of when and an estimated timescale to execute works perhaps the dDCO was submitted prematurely. The reality is that this lack of information and the resultant uncertainty it causes, particularly to the Occupier whose business and livelihood could be severely disrupted, is unsettling and causing significant anxiety. If the Applicant cannot address these simple questions then it cannot come as a surprise that discussions have failed to reach a voluntary agreement, especially when the Applicant's solution is to seek to reserve what is perceived to be a highly	

Reference No.	Interested Parties Response	Applicant Response
	<p>unreasonable position (3 years temporary occupation) for what is stated by the Applicant in the recently submitted Interested Parties Response to ExA's First Written Questions as "relatively minor" works (for which we were advised on 6th September 2023 would take "no more than 2 days").</p>	<p>The Applicant believes a reasonable offer to acquire the land required voluntarily has been made, the most recent being made on the 17th October 2024 based upon further updates to the wider terms proposed and awaits a response.</p>
079-09	<p>The Applicant has then said that it had "hoped it would be possible to make more progress on the broader topic of acquisition without absolute certainty on that [temporary possession for utilities work] aspect" implying the Landowner and / or the Occupier are at fault. This is wholly rejected because the first iteration of dHoT put to us were not fit for purpose and furthermore no offer has ever been made to the Occupier, and secondly, the Applicant is sitting on and not progressing with the latest iteration of dHoT that have been issued to them for consideration. And finally, we repeat that we are still awaiting to receive a draft licence agreement for occupation of the temporary land despite the Applicant's representative saying it will be provided at the next meeting which took place on 10th September. Gateley Hamer, the Landowner and / or the Occupier are not the cause of the ongoing delays to progressing with a voluntary agreement.</p>	<p>With regard to the ongoing discussions in relation to survey access, the Applicant has provided further comments following a review of the requested timings and approach to the surveys.</p>
079-10	<p>We also firmly reject the claim about there being some delayed confusion about the most appropriate deal structure to adopt. Gateley Hamer first suggested to the Applicant's representative the idea of a tri-partite legal agreement on 24th May 2023, and this was followed up on 7th September 2023 and 23rd October – appended to this submission is the relevant email correspondence so there can be no confusion. As can be seen from the correspondence, we have been saying for an extended period that the Applicant's representative would also need to engage with the Occupier to agree a voluntary deal, it is simply misleading to suggest to the ExA that there was some late confusion over how vacant possession might be delivered.</p>	

Reference No.	Interested Parties Response	Applicant Response
	<b>Conclusion</b>	
079-11	Overall, it remains our view that the Applicant continues to fail to engage in timely and meaningful discussions. Negotiations have certainly not been exhausted such that powers can be deemed necessary and last resort. We therefore request the ExA refrain from confirming compulsory acquisition powers until negotiations have run their course and we will be happy to update the ExA of the status of negotiations before the close of the examination if that would be helpful. For the avoidance of doubt, the Landowner and Occupier remain willing and able to engage with the Applicant with a view to finding an acceptable voluntary solution to all sides.	

## 9. AS-083 – Mr Hadley

Reference No.	Interested Parties Response	Applicant Response
<b>The spur road Junction onto the Old Gloucester Road</b>		
083-01	The designed scheme substantially affects my allocated site, by restricting development access and therefore in my case the scheme does not meet <b>the key objective in providing housing</b> .	In being allocated as part of Strategic Allocation A7, through the adoption of the JCS, Mr Hadley’s land was removed from the Green Belt. As such it is the Applicant’s position that any future development of Mr Hadley’s land for residential development is predicated on its removal from the green belt through the JCS. Given that the JCS allocations are also predicated on the supporting transport evidence base, and the mitigation outlined in DS7, the allocation of Mr Hadley’s land is also predicated on the Scheme elements identified in DS7, namely the link road junction and its connection to Strategic Allocation A7 being brought forward. Therefore, the Applicant would strongly contend that the Scheme contributes positively to the development potential of Mr Hadley’s land and enables the site to come forward as potential housing development. The Scheme does not prevent Mr Hadley from developing his site, although any detailed provisions around access are a matter for the local planning authorities and it is not within this Scheme’s scope to provide specific access arrangements for future housing development that has no planning status.
083-04	On the first day of the Inquiry I stated the need for a roundabout and since then minor negotiations with GCC have taken place to consider access off Hayden Lane for my site, but these negotiations have stalled without a definite outcome.	The Applicant has been engaging with Mr Hadley since 2021 as has been established throughout representations (see REP5-026). The Applicant has given justification to the design of the Scheme throughout. This has included a virtual Teams meeting on the 5 <sup>th</sup> September 2024, a site meeting with Mr Hadley on the 18 <sup>th</sup> September 2024 and a further Teams meeting with Mr Hadley and his agent on the 18 <sup>th</sup> September 2024. The Applicant responded to

Reference No.	Interested Parties Response	Applicant Response
		<p>Mr Hadley's concerns regarding limitations associated with Hayden Lane on the 14<sup>th</sup> October 2024 and the engagement regarding this point continues.</p> <p>The Applicant has made an offer to voluntarily acquire the land required for the Scheme from Mr Hadley and continues to seek to provide the additional level of information to Mr Hadley regarding access, to allow negotiation of the acquisition to progress.</p>
083-05	<p>If GCC persist in not agreeing a way forward to address the issues, then they have been warned that a substantial claim will result, leading to further financial pressure on the overall cost of the scheme.</p>	<p>The Applicant is aware of the compensation code and any liability in respect of compensation. The Applicant is aware of the inextricable link between the need for the Scheme and highway improvements to enable the development of the wider allocation, and the challenge for Mr Hadley to develop his site in isolation. It is the Applicant's position that it is clear that the Scheme will provide significant benefits to Mr Hadley's land. However, any detailed discussions around quantum for future claims is not a matter for consideration within examination and would fall within the remit of the Lands Tribunal should a claim be made at a future date.</p>
083-06	<p>A clear way forward is to finish the spur road at the northern edge of the Old Gloucester Road and let landowners sort out their own access, this is a much cheaper option for the scheme and would reduce some of the financial shortfall in the whole proposal.</p>	<p>The position of the southern junction of the West Cheltenham Link has been aligned with the main distributor road through the West Cheltenham Development (as shown in the West Cheltenham SPD). The Applicant has assumed that any planning permission granted for the West Cheltenham site requires developers to provide the main distributor road (as shown in the West Cheltenham SPD) and therefore the Applicant considered it reasonable to future proof the southern Link Road junction and provide the stub arm to avoid further construction work and disruption to the B4634 Old Gloucester Road. The Applicant's position therefore is that the main distributor road has a planning status which was relevant for the Applicant to consider during its development of preliminary design.</p>



Reference No.	Interested Parties Response	Applicant Response
		<p>The Applicant position is that other accesses into the West Cheltenham Development should be provided by developers in accordance with any planning permission they receive.</p> <p>The Applicant would refer the IP to other Planning Applications for the West Cheltenham Development (references 22/01817/OUT, 22/01107/OUT, 23/01874/OUT) that include alternative accesses onto the B4634 that are not being provided by the Applicant.</p>
083-07	<p>It is of great concern to me that the Applicant did not do their initial due diligence regarding land ownership in the early stages and have not been 100% effective in solving the problem of access into my Allocated Land.</p>	<p>The Applicant considers that it has had regard to the status of Mr Hadley's site. It has ensured that its current use can continue without detriment as a result of the Scheme and has ensured that the site is not restricted from future development potential. The Applicant has not provided access for an unconsented future use, as previously justified.</p>
<p><b>How our Human Rights are affected</b></p>		
083-09	<p>My wife and I have owned the site for many years and are owners of other land close by. Some of the land has been in the family for over 100 years and there is obviously a strong sentimental attachment to it.</p> <p>At no time have we ever argued against the overall scheme, but we are anxious to know certain outcomes. This has clearly not happened ever since the initial correspondence we received years ago and certainly not during this Inquiry.</p> <p>Therefore my wife &amp; I have been materially affected under the Human Rights Act 1998, due to the Applicant 'Acting in an incompatible way with Convention Rights'. Article 1, First Rule; which includes land affecting 'peaceful enjoyment of property', Second rule; 'deprivation of property (Grape Bay Ltd v Attorney-General of Bermuda [2000]. The Third rule 'controlling the use of property – in my case access arrangements'.</p>	<p>The Applicant acknowledges and appreciates the psychological impact that compulsory acquisition may have over persons affected.</p> <p>The Applicant has had regard to the European Convention on Human Rights (the "Convention") and the Human Rights Act 1998. The Applicant recognises that the Scheme has an impact on individuals and in its Statement of Reasons (REP4-024) acknowledges that the Order if granted may infringe the human rights of persons with an interest in land. The articles which the Applicant considers relevant are Article 1 of the First Protocol, Article 6, and Article 8.</p> <p>The infringement of human rights is authorised by law provided that:</p> <ol style="list-style-type: none"> <li>a. There is a compelling case in the public interest for the compulsory acquisition powers included within the DCO and that proper procedures have been followed; and</li> </ol>

Reference No.	Interested Parties Response	Applicant Response
	<p>To underpin the above and emphasise the way in which we are poorly treated I give simple examples of matters still requiring immediate attention:</p>	<p>b. Any interference with a human right is proportionate and otherwise justified.</p> <p>The Applicant considers that the significant public benefits that will arise from the Scheme as set out in its Statement of Reasons outweigh any harm to those individuals. The Order strikes a fair balance between public interest in seeing the Scheme proceed (which is unlikely to happen in the absence of the compulsory acquisition powers) and the private rights which will be affected by the compulsory acquisition.</p> <p>In relation to Article 1 and 8, the compelling case in the public interest for the compulsory acquisition powers included within the DCO has been demonstrated in Chapter 5 and in the Planning Statement and Schedule of Accordance with NPS (REP1-028)The land over which the compulsory acquisition powers are sought, as set out in the DCO, is the minimum necessary to ensure the delivery of the Scheme. The Scheme has been designed as far as reasonably practical to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.</p>
083-10	<ul style="list-style-type: none"> <li>• At the last Inquiry Hearing the Inspector asked for a detailed overlay plan of the proposed land take and its effect on my site. To date I have not received it, all I have been sent is a schematic drawing that is so unclear it is similar to an artwork. To me this shows contempt for the Examining Authority.</li> <li>• As yet there is still no agreement on terms regarding 'Licence to Enter my Land'.</li> <li>• Proposals for a new access off Hayden Lane are at best sketchy.</li> <li>• The need to simply agree funding for my agents services, both now</li> </ul>	<p>The Applicant first reviewed plans showing the interaction of Mr Hadley's land with the Scheme during the Teams meeting on the 5<sup>th</sup> September 2024. These were provided by email on the 18<sup>th</sup> September 2024. No response was received from Mr Hadley requesting further plans and illustration following the provision of these.</p> <p>The Applicant is continuing to negotiate an access license to undertake surveys on Mr Hadley's land. This is a separate agreement to the wider acquisition negotiations.</p>

Reference No.	Interested Parties Response	Applicant Response
	<p>and going forward.</p> <ul style="list-style-type: none"> <li>A realistic land purchase offer based on commercial values for Allocated Development Land.</li> </ul>	<p>The Applicant provided Mr Hadley with reassurance regarding the safety and suitability of the design of the access from the Old Gloucester Road during the site meeting on the on the 18<sup>th</sup> September 2024 and further detail in writing on the 14<sup>th</sup> October 2024. The Applicant notes the comments from the Joint Councils regarding the suitability of the access during Issue Specific Hearing 4. Notwithstanding this, swept path analysis was provided by the Applicant to Mr Hadley on the 29<sup>th</sup> October 2024.</p> <p>The Applicant remains in discussion with Mr Hadley’s agent regarding their reasonable and appropriate fees with the most recent interim claim for agent’s fee reimbursement being received on the 25<sup>th</sup> September and agreed on the 11<sup>th</sup> October 2024.</p> <p>As referred to by the Applicant above, the development potential of Mr Hadley’s land is inextricably linked to the highways improvements being proposed within the Scheme. The Applicant has made an offer to acquire the land required for the Scheme from Mr Hadley taking account of the compensation code. The Applicant would note that the acquisition is not on a commercial basis but is in the shadow of compulsory acquisition.</p> <p>The Applicant is working on a drawing for Mr Hadley that will include and illustrate the elements that Mr Hadley brought up in the examination. These are:</p> <ul style="list-style-type: none"> <li>Overlay plan showing proposed field access, permanent and temporary land boundary marked up with dimensions</li> <li>Cross section through proposed Old Gloucester Road and proposed field access showing existing and proposed levels, indicative construction details of the access, gate positions, landscaping, temporary land take.</li> </ul>

<b>Reference No.</b>	<b>Interested Parties Response</b>	<b>Applicant Response</b>
		<ul style="list-style-type: none"><li>Proposed indicative details of accommodation works such as gates, boundary fences etc. (which will be subject to agreement as part of the land purchase)</li><li>Swept paths for the access based on a tractor and trailer</li></ul>
083-12	The end result of all the above is that both my wife and I are affected, which is one example of incompatibility due to lack of any effective procedure agreeing the payment of compensation within a sensible, fair and commercially appropriate period of time	The Applicant has established the continued engagement and negotiations throughout the above response. The Applicant acknowledges the disturbance that schemes such as this have on interested parties and remains committed to progressing negotiations with Mr Hadley to voluntarily acquire the land required in accordance with the statutory process and best practice guidance for such schemes.

# AtkinsRéalis

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

Tel: +44 (0) 8000 514 514