



Application by Gloucestershire County Council for M5 Junction 10 Improvements Scheme

The Examining Authority's written questions and requests for information (ExQ3)

Issued on 7 November 2024.

The following table sets out the Examining Authority's (ExA's) written questions and requests for information – ExQ3. The examination timetable enables the ExA to issue further rounds of written questions. This is the third set of written questions.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe C to the Rule 6 letter of 7 May 2024. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 3 (indicating that it is from ExQ3) and then has an issue number and a question number. For example, the first question on air quality and emissions issues is identified as Q3.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact M5Junction10@planninginspectorate.gov.uk and include 'M5 Junction 10 Improvements Scheme' in the subject line of your email.

Responses are due by Deadline 9: Tuesday 19 November 2024.



Abbreviations used:

PA2008	The Planning Act 2008	LIR	Local Impact Report
Art	Article	LPA	Local planning authority
ALA 1981	Acquisition of Land Act 1981	MP	Model Provision (in the MP Order)
BoR	Book of Reference	MP Order	The Infrastructure Planning (Model Provisions) Order 2009
CA	Compulsory Acquisition	NPS	National Policy Statement
CPO	Compulsory purchase order	NSIP	Nationally Significant Infrastructure Project
dDCO	Draft DCO	R	Requirement
EM	Explanatory Memorandum	SI	Statutory Instrument
ES	Environmental Statement	SoS	Secretary of State
ExA	Examining authority	TP	Temporary Possession

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

[TR010063-000482-M5 Junction 10 Examination Library.pdf](#)

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ3 1.0.1 – refers to question 1 in this table.



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ExQ3	Question to:	Question:
1.	General and Cross-topic Questions	
Q1.01	The Applicant	<p>Equalities Act:</p> <p>Considering the points made on behalf of the Joint Councils in Appendix to the D7 [REP7-016] submission, please clarify what advice was received from the police, and whether attempts to visit the site were made with police assistance.</p>
Q1.02	The Applicant	<p>Plans</p> <p>Sheet 4 of 12 the Cross-section BB [AS-103] would appear not to be correctly labelled please update or explain the drawing/plan.</p>
Q1.03	The Applicant and National Highways	<p>Consistency of Information</p> <p>In both the original RR from NH [RR-026] Item 1.4 (c), (d), the SoCG [REP3-037] Items 4.1 and 4.3 and the subsequent PADSS [REP5-038] issues were raised about the consistency of information within the Statement of Reasons and Work No's (PADSS Item No. 26).</p> <p>Can each party explain the current position and if matters remain outstanding make clear what these matters are.</p>
Q1.04	The Applicant (ii) Gloucestershire County Council as Highway authority (i) and (iii)	<p>Change 6 in Change Application No.2</p> <p>The design appears to allow the PROW to be flooded at times of a flood event.</p> <p>(i) Is the Highway authority content this is an acceptable form of design for a PROW?</p> <p>(ii) What mechanism would be in place to ensure that the underpass would be made good after a flood event to ensure that it could continue to operate as a PROW once the flood event had passed?</p> <p>(iii) Are GCC as Highway Authority content there is an appropriate method of long term maintenance for this PROW including any process for clean up after a flood event?</p>
Q1.05	The Applicant	<p>Equalities Statement</p> <p>Paragraphs 1.1.3 – 1.1.5 of [APP-144] the Equality Impact Assessment confirms that this is to be a live document and kept up to date during the examination, with the latest iteration being [REP5-014].</p> <p>(i) Can the Applicant provide an update which reflects the latest position including the two change requests.</p>

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ExQ3	Question to:	Question:
Q1.06	Applicant and National Highways	<p>Re. Updated Funding Statement [REP6-005]</p> <p>(i) If the money is secured by way of a loan, does this resolve the outstanding concerns of NH such that there is confidence the scheme can progress to completion and the SRN be adequately safeguarded?</p> <p>(ii) If this remains an outstanding issue has an alternative mechanism been agreed that would provide for assurances the SoS could (in the event of a positive decision on the DCO) have to ensure the works can commence and be completed.</p>
Q1.07	Applicant and National Highways	<p>Safe operation of the SRN during construction</p> <p>Can NH confirm if there are any outstanding safety concerns in respect of the SRN beyond those relating to finance (certainty of funding/bond)?</p>
Q1.08	Applicant and National Highways	<p>Previous DCOs on the SRN where NH were not the Applicant</p> <p>Can the Applicant and NH consider whether the approaches taken for the delivery of M1 Junction 10a, or Heysham link to M6 or other NSIP schemes where the undertaker was not National Highways or its predecessor organisation, to advise whether there might be options that these schemes followed which allowed work to be undertaken to the SRN by a third party.</p> <p>(In asking this question the ExA is aware that the schemes referenced date from 2011/2012 and so best practice may well have moved on, but it is felt that it may be worth exploring to see if there was a possible remedy to what currently appears to remain as an obstacle to agreement to the undertaking of the DCO)</p>
Q1.09	Applicant and National Highways	<p>NH Requested Bond</p> <p>(i) Please can both parties explain their current positions including any agreements / remaining areas of disagreement?</p> <p>(ii) Please can both parties set out their positions with respect to if the strategic road elements of the DCO scheme could be completed first using the secured HIF monies? In doing so, please can the parties provide their views with how this approach could be appropriately secured via the DCO or another mechanism.</p> <p>(iii)</p>

ExQ3	Question to:	Question:
Q1.0.10	Applicant and National Highways	<p>Scheme Cost</p> <p>(i) The D7 NH submission [REP7-019] suggests that there may be a scheme cost variance of as much as c. £48m (associated with inflation and indirect works). Please can the applicant and NH clearly set out their respective positions?</p> <p>(ii) In doing so, please can both parties explain any additional scheme cost burden based upon the cumulative total sum associated with the costed items which were within c. 10% variance?</p> <p>(iii) In light of the variances currently between the parties are NH able to provide evidence from other recent cases which support the approach to assessment that they are taking, and give evidence as to why the Applicant's assessment is less robust?</p>
Q1.0.11	Applicant	<p>National Infrastructure Bank Loan</p> <p>Please can the applicant explain if any greater sum of money (over-and-above) the £81 million funding gap could reasonably be expected to be secured if any remaining disputes between the Applicant and NH (as per Q1.0.9) identify the need for a larger sum?</p>
1.1 Environmental Statement (General)		
Q1.1.1		No further questions
1.2 Need		
Q1.2.1		No further questions
1.3 Site selection and alternatives		
Q1.3.1		No further questions
2. Air Quality and Emissions		
Q2.0.1		No further questions
3. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))		
Q3.0.1		No further questions
3.1 Habitats Regulations Assessment		
Q3.1.1		No further questions

ExQ3	Question to:	Question:
4.	Climate Change Adaption and Carbon Emissions	
Q4.01		No further questions
5.	Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations	
Q5.01	The Applicant and all statutory undertakers	<p>Statutory Undertakers</p> <p>(i) As of the current version of the dDCO and representations at deadline 5 there appear to remain outstanding matters in respect of protective provisions with the following statutory undertakers, National Grid, Wales and West Utilities, Severn Trent Water.</p> <p>In light of the response provided to second written question 5.013 by the Applicant in [REP5-027] are there any further updates that can be provided in respect of each of the individual statutory undertakers and the specific provisions that are being sort where matters are yet to be resolved.</p>
Q5.02	Severn Trent Water Ltd, Wales and West Utilities, National Grid Electricity Distribution (West Midlands) plc, National Highways	<p>The acquisition of Statutory Undertakers' land and removal of apparatus – s127 and 138 PA2008</p> <p>(i) For each Statutory Undertaker (SU), please explain your position in respect of the land or rights to be acquired and confirm whether these can be acquired without serious detriment to the carrying on of the undertaking and for those where rights would be extinguished or relevant apparatus removed, please indicate your respective positions.</p> <p>(ii) whilst the powers as drafted may apply to matters covered by both s127 and 138, please clarify whether all land concerned is SU land to which s127 applies and indicate for which s138 applies in that there subsists over the land a relevant right or there is, on, under or over the land relevant apparatus.</p>
Q5.03	The Applicant	<p>Crown Land</p> <p>(i) Can the Applicant provide an update on the progress of negotiations with the Crown and whether it is likely negotiations will be resolved prior to the end of the examination.</p> <p>(ii) In the event that it is not considered likely that the negotiations would be resolved by the end of the examination, can the Applicant provide an update on how they consider the SoS should address this matter?</p>

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ExQ3	Question to:	Question:
Q5.04	Crown Estate Commissioners, Department for Environment Food and Rural Affairs, SoS for the Department Housing Communities and Local Government (formerly Department of Levelling Up, Housing and Communities)	<p>Crown Land</p> <p>Can each relevant party set out their position in respect of land rights and whether they are resolved? If they are not resolved, please set out the latest position and if there is likely to be a positive resolution prior to the end of the examination.</p>
<p>6. Draft Development Consent Order (DCO)</p>		
<p>6.0 Articles</p>		
Q6.01	The Applicant and National Highways	<p>Outstanding matters</p> <p>The latest SoCG [REP3-037] continues to identify a series of outstanding matters in respect of:</p> <ul style="list-style-type: none"> Article 2 – Pre construction mitigation Article 8 - Limits of Deviation Article 10 - Transfer of Benefits Article 11 – Power over street works within SRN Article 13 – Assets to be transferred Article 14 – Assets to be adopted Article 17 – Exclusion of SRN from the Article Article 25 – NH land affected by PROW Article 30 - in respect of Article 13 <p>Can both parties ensure that where agreement has been reached this is clearly updated within the SoCG, and where matters remain outstanding each part makes clear its position in respect of each individual Article.</p> <p>Where a different form of words is sought, please provide the preferred wording and explain the reasons why such wording is preferred.</p>
Q6.02	National Highways	<p>PADSS</p>

ExQ3	Question to:	Question:
		The current version of the PADSS [REP5-038] continues to identify a range of matters which remain under discussion. These largely correspond with the matters listed in the previous question, but for clarity PADSS item no's, 14, 15, 16, 17, 18, 19, 20 and 23. Please clarify the latest position on each of these matters.
6.1	Schedule 1 – Authorised Development	
Q6.1.1		No further questions
6.2	Schedule 2 - Requirements	
Q6.2.1		No further questions
6.3	Schedule 3 – Legislation to be disapplied	
Q6.3.1		No further questions
6.4	Protective Provisions	
Q6.4.1	National Highways, Severn Trent Water Limited, Wales and West Utilities, National Grid	Protective Provisions (i) Can each party provide an update on the progress towards the negotiations of protective provisions. (ii) Where they remain to be agreed can each party provide a copy of their preferred provisions and explain the specific reasons why each provision as drafted in the latest iteration of the dDCO are not considered appropriate.
7.	Good Design	
Q7.0.1		No further questions
8.	Green Belt	
Q8.0.1		No further questions
9.	Heritage	
Q9.0.1	The Applicant and Joint Councils	Non Designated Heritage Assets: In light of the confirmation that Elton Lawn, Post Box Cottage and Landean have now been identified as Non-designated heritage assets despite not being on a publicly available local list,

ExQ3	Question to:	Question:
		can the Joint Councils liaise with the Applicant so that the ExA can be reassured there are no further non-designated heritage assets which may be affected by the Proposed Development, and that the heritage assessment is comprehensive.
10. Geology and Soils		
Q10.0.1	The Applicant	No further questions.
11. Landscape and Visual		
Q11.0.1	The Applicant	<p>Change Request Application No.2</p> <p>In light of the changes to the application now to be examined and be subject to the report to the Secretary of State, can the Applicant provide revised visual imagery which fully reflect the scheme at year one and year 15 as now proposed from the same vantage points as provided earlier in the examination where the changes deliver visual changes.</p>
12. Noise and Vibration		
Q12.0.1	The Applicant Joint Councils	<p>Stoke Road Traffic Calming Scheme</p> <p>(i) Please can the applicant confirm the level of mitigation / noise reduction that the Stoke Road scheme will offer? In particular, for the avoidance of doubt will the speed reduction (30mph to 20 mph) / traffic calming effectively mitigate the operational stage significant effects identified in the noise chapter of the Environmental Statement?</p> <p>(ii) Do the Joint Councils accept that the identified scheme will effectively mitigate these effects?</p>
13. Policy		
Q13.0.1	The Applicant	No further questions.
14. Socio-economic effects		
Q14.0.1		No further questions

ExQ3 15.	Question to: Traffic and Transport	Question:
Q15.01	Joint Councils The Applicant	<p>North West Cheltenham - Safeguarded Land Access (Retained Use)</p> <p>(i) Considering the vehicle figures presented by Court Consulting submission [REP7-20] Please can the LHA / Joint Councils and Applicant confirm if the seasonal vehicle flows and sizes outlined are considered reasonable and reflective of existing conditions?</p> <p>(ii) Please can the LHA / Joint Councils and Applicant provide a response as to the appropriateness of the shared access proposed, and its ability to safely and suitably accommodate such seasonal vehicle flows and vehicle sizes?</p>
Q15.02	Applicant and Joint Councils	<p>Vehicle Swept Path Assessments Appendix D, [REP7-101]</p> <p>The vehicle swept paths seem to suggest that there will be conflicts with kerbs, road features and potentially any oncoming vehicles waiting at give-way and stop lines within the A4019 and the service road etc. For example, with reference to the drawing extract below, any vehicle waiting at the give way line, would appear to conflict with an oncoming vehicle travelling towards the A4019.</p> <div data-bbox="1249 887 1630 1168" data-label="Image"> </div> <p>Please can the applicant and the Joint Councils provide a response as to if this can be considered to be a safe and suitable design arrangement? If not, how will the scheme be amended to provide an appropriate solution?</p>
Q15.03	The Applicant National Highways	<p>Motorway Junction / Slip Road Modelling</p> <p>With respect to Paragraph 3.4 in the NH D7 [REP7-019] response, please can both parties set out any specific concerns which may stand against the proposals in terms of highway safety or appropriate operation of the strategic highway network?</p>

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ExQ3	Question to:	Question:
Q15.04	Joint Councils	Sustainable Transport Provision Does the JC consider that the Applicant's D7 local policy review (included at (REP7-010) Appendix A 'Response to Action Point 2: Active Travel Provision') of the active travel provision embedded within the DCO scheme meets the requirements of the NN NPS at Paragraph 5.211?
16. Water Environment – Flood Risk, Water Quality and Resources		
Q16.0.1		No further questions
16.1 Water Framework Directive		
Q16.1.1		No further questions

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