



Hearing Transcript

Project:	M5 Junction 10 Improvements Scheme
Hearing:	Issue Specific Hearing 5 (ISH5)
Date:	20 November 2024

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SUMMARY KEYWORDS

M5 junction 10, issue specific hearing, compulsory acquisition, protective provisions, bond to secure, UK infrastructure bank, funding progress, flood risk, water quality, noise mitigation, heritage assets, archeological management, visual effects, landscape treatment, common ground, funding proposals, methodology debate, safeguarded land, Historic England, archeological updates, Natural England, alternative development, SOCG agreement, CIL tests, viability reports, planning policy, change application, protective provisions, non-designated assets, Water Framework Directive

00:05

Hearing number five, and we're obviously looking at a variety of matters in respect of the m5 junction 10 improvement scheme. This issue specific hearing is to provide an opportunity for issues raised by interested parties, and particularly the differences between them, to be explored further by the examining authority. The purpose of an issue specific hearing is set out in Section 91 of the Planning Act 2008 it is held if the examining authority decides it is necessary for the examination to hear oral representations to enable adequate examination of the issue, or to ensure that an interested party has a fair chance to put their case, as indicated in the agenda, questioning at the hearing will be led by a member of the panel supported by the other panel member. It is for the examining authority to determine how hearings are to be conducted, including the amount of time to be allowed at the hearing for the making of a person's representations. Our aim is to use our powers of control over the conduct of hearings to ensure that they are carried out as efficiently as possible, whilst remaining fair to all parties and thorough in our examination of the evidence, we have identified matters to be considered at this issue specific hearing and those on which we require further information, and these are set out in the agenda which was published in advance of the hearing. Participants should note that written summaries of your oral submissions to this hearing should be provided to the inspectorate by deadline 10, which is Thursday, the 28th of November. Now, item two of the agenda was just dealing with DCO and the protective provisions, which we went through largely earlier under the compulsory acquisition hearing. The only element that remains outstanding, I think, is just clarification from the applicant with regard to the position for Part seven of the protective provisions for the protection of BT, open, reach, limited. And the only reason I'm posing a question here is these have been added at the deadline seven version of the DCO. And can you confirm to me that these are now agreed with BT Openreach, or is there anything between the parties that remains in discussion?

02:39

It is an under on behalf the applicant, I can confirm that this have now been fully agreed with BTU openbridge, and they have conducted this in writing. Okay,

02:48

it would be helpful if you can provide us with a copy of that correspondence so we can just then tie that loose end off. Thank you very much. Okay, so our next item was really looking at the issue of whether a bond to secure national highways interest was appropriate. We set out in our commentary on the DCO our thoughts with regard to the position at that time. So we really just wanted to understand from the applicant what their latest position is. Appreciate that this hearing the timing of it hasn't allowed us to look at the responses to third written questions, so you may well have put a written response in to the power questions on that. But if you could bring us up to date with what the latest position is with regard to a bond, that would be helpful. So

04:07

Gary Solomon for the applicant. So yes, you've you won't yet have seen the response we've given to your suggested amendments to the draft DCO, but we are the applicant is content with your suggested provision subject to a small amendment to bring it in line with national highways standard auditing provisions, but the principle is agreed.

04:41

So that's moved on then from your previous position where there was obviously some anxiety about whether a bond was necessary or appropriate.

04:51

So the reason is because we are very near to completion of a side agreement which has a notice to proceed. A mechanism in it which doesn't automatically require a bond, but requires the applicant to demonstrate that sufficient funding is available prior to commencing works to the strategic road network. That will be the mechanism that provided that agreement is entered into with no reason to think it won't. Will will trigger. And therefore, if that agreement is not entered into, it is proper. The applicant considers to have something in the DCO which does require bonding.

05:38

Okay? And that's going to be, presumably, a side agreement with national highways, which wouldn't be subject to actually coming before the examination. That's correct, sir. Okay, so we will just expect a written confirmation from yourselves and national highways as to the status of that side agreement by the end of the examination.

06:01

So it's anticipated it will be completed by the end of the examination.

06:06

Okay, thank you.

06:14

So again, then, just in terms of the broader position with regard to the funding from the UK infrastructure bank. Are you able to clarify anything further to us on progress with discussions with them? I

06:48

Andrew, take for the applicant in the cover letter of the material provided yesterday, deadline nine, though it refers to an attachment, which is a letter from UK infrastructure bank. It's from Ian Watson, the director of lending, and that sets out their position that GCC has commenced discussions earlier than would normally be the case, and this positions us well to progress the project through the necessary governance approvals and loan documentation process in light of an anticipated Secretary of State decision on the project in early June 25 and planned commencement in October 2025, and it then goes on to refer to the project being visible to senior management through inclusion in our pipeline and potential projects, they visit a sufficient time to enable completion of the three Stage governance process and allow formalization of the loan documentation to support plan data commencement works, they set out some detail about the those three stages and the timing of those and then the notes that the GCC teams indicated a known facility of 81 million pounds or more than may be required in respect of the project, that the amount will be subject to due diligence and the council its ability to repay the loan. But NWF, the National Wealth Fund, which is an and another name, I believe, for the organization, the National Wealth Fund, has up to 4 billion pounds to lend to local authorities, and recently worked with Denver Chicago Council provide lending of 90 million pounds. It then refers to loan facilities with flexible drawdown terms for which, which for the project, would enable the facility to be agreed during 2025 with drawdowns typically available at degree points during the construction period. And goes on to talk about repayment terms being flexible various loan tenors, and having discussed with GCC potential different lending approaches, so and says, Good luck in progressing with the project, and we look forward to discussing this further with you and the GCC team, anyway, that letter is set out in what I thought I would summarize it, because you wait to have the opportunity to see it, and it's attached to the cover letter of the 19th of November 2024, from GCC. There's another letter attached, which is, which was, and. Participated in the funding statement provided at rep six, double oh five, which is the letter from Gloucestershire county council confirming the council's commitment, including securing the loan from UK infrastructure bank. So that's the other side of the equation, and there's a letter there, which I don't read out that it sets out the County Council's commitment to that route.

10:34

So that county council letter, then, is confirmation that the appropriate authority from the council has been given to regress with the loan arrangements and committing to the to the project. Yes,

10:54

at this stage, that is as far as they can go in due course, once the various stages are entered into, and then they would be anticipated to be cabinet approval to to a formal loan being entered into this stage. This gives the the commitment that is appropriate at this stage from the county council.

11:23

Okay, thank you.

11:34

So then that helpfully moves us on to Item four, I think, which, again, within our commentary on the DCO, we made some suggestions as to potentially limiting the timing of undertaking the compulsory

acquisition. And I suspect that's quite unusual, but the reason that we'd proposed it, and obviously we'd be interested to hear your commentary on that, is that our understanding to date had been that you were relying upon the HIF funding for undertaking compulsory acquisition, and in doing so, we needed to try and ensure that the DCO effectively aligned with the known position of HIF funding. So again, be interested to hear your response to that. Thank you.

12:45

Thanks Doug Haycock for the app can So our initial position says is that we consider that a continuation of five years is appropriate. However, we do fully take on board the reasons for looking at two years and two and a half years for that period of implementation of CA our primary reason for thinking that two and a half years is unduly restrictive is that It doesn't allow for any extension of HIF funding in event of any at the moment, the applicant isn't anticipating any extension of HIF funding to be required. However, in the event of any kind of unforeseen delay, including the, say, the order to be delayed by the Secretary of State, there is the potential that HIF funding might need to be looked at for extending that period and and so tying the availability period for compulsory accession power so closely to the absolutely known value of The HIF funding is seen as unduly restrictive, that being says, the applicant would welcome consideration by the XA, potentially of a three year implementation period. It's the applicant's view that, you know, a three year minimum period as a minimum would balance the impact to affected persons. Are you through limiting the period in which proxy is blighted against the public benefit for the scheme? Key to this consideration is that the app can, wouldn't it isn't required to acquire all the land through GBD at the outset of the scheme, it remains within the power of the applicant to stage its acquisition, to ensure that land is only acquired as and when it's needed. That has clear benefits. It reduces the amount of time that land is left. Is potentially fallow or abandon, awaiting use for the scheme, and equally enables affected persons to remain on and use their land for a longer period, potentially realizing additional harvest. In the case of agricultural land, having a set period of three years would run from In an ideal situation, then if, if TCO is granted in accordance with timetable from June 2025, to June 2028, which would coincide with a likely build timetable scheme, uh, taking into account the possibility of a limited period today. Um, it should be noted says that three years is a period which is set out as a as a maximum period in the compulsory purchase act of 1965 and it has, it's been a clearly established principle in that three years adequately balances the impact of persons with the need for flexibility since since 1965 and whilst I note says that the Planning Act specifically excludes the applicant applicability of that three year period for orders, the most common result of that exclusion is actually that period moves to a longer period five years, or in some cases, more and so coming back to this sort of a more established period of three years, the outcome considers is much more in line with a set principles of public law. The outcome of just finally comment that if, if any period were to be reduced below five years, the potential impact of any legal challenge to the order could then have a heightened impact on the availability of any of Any structuring of acquisition the app can, in its response yesterday, sir, to your commentary on the XA has suggested wording that could go in to protect against that risk from legal challenge. It's taken that wording from Manston so which I appreciate you're aware of, and that had a much shorter year availability period for CA, and basically that looks to have the availability of CA run from a start date, which is essentially three years from the end of the period for legal challenge.

17:40

No, that's that's helpful. Thank you. Just in terms of your comment there about you not anticipating, at this stage for an extension of HIF funding, I'd understood from one of the previous hearings and written submissions. When Mr. Beatty was replying to timing that it was likely that you were applying for an extension of the if funding have I misunderstood that I

18:30

thank you, sir. So my understanding says there's two relevant periods for here. Fits the sort of completion period and the availability period for funding, the period which we're currently looking to extend is the completion period. That is a period which can be extended within homes delegated authority. Currently the app can is not anticipating extending the availability period of funding. It anticipates it will be able to use the if funding within the current availability period. So that's currently not within the applicant's design.

19:10

Okay? Now that's a helpful clarification, but it sort of leads me on to a sort of supplementary question I had at the back of my mind anyway, trying to help me understand better the distinction between the project completion end date, which was originally in the HIF funding, I think of the 31st of December 27 and the funding availability period, which was up to the 30th of September 2027 if the funding availability period is to stay as September, but you're seeking to potentially extend the completion beyond December 27 just explain to me how that. How that works in reality, because I think I'm getting a little confused as to what the two end dates actually mean in practice.

20:13

Chris Beatty for the applicant, so under terms of the original agreement, it wasn't foreseen that the if money would be fully drawn by September. So we would have drawn the hip funding earlier in extending the completion date from December 27 to March 28 and we're still able to use all of the funding by September 27 so the actual cash flow profiling of the project in the circumstance where we were working to a December 27 completion didn't require all of the September 27 availability period. In other words, we'd have drawn the hip funding two to three months earlier than that September 27 date. So when we now look at reprofiling the scheme through to a March 28 completion, it's the case that we're confident that we will still fully draw all of the hip funding by September 27 there's therefore no need to apply for an availability period extension at this point in time. So

21:24

so when you say you draw the money, you effectively say to homes, England, we need X 1000 pounds now to do X, Y and Z, they release the money, and you can then go on and use the period beyond Sep 20, September 27 to spend that money? Now I've misunderstood it, no.

21:44

So we demonstrate that we've properly incurred the costs in relation to the project, and we draw down retrospectively. So by September 27 we would have had to have incurred and spent, properly spent that money on the project, and have claimed it. So it's a drawdown process in arrears in relation to work properly delivered under the contract.

22:09

So is it the position that any works undertaken after the 30th of september 2027, would be funded by monies outside of the HIF fund? Effectively,

22:20

that's correct, yes,

22:22

thank you.

22:37

That's very helpful. Thank you. Applause.

22:50

So then just going back to the previous question on compulsory acquisition,

23:00

whilst you're maintaining that five years would be the third option, I think you're saying to us that a three year period would be workable. But if the Secretary of State ultimately were to decide on a lesser period, you are saying to us that that could only work if the further adjustment that you've proposed, which would mean that that period had run from not the date of the DCO being granted, but from the legal challenge period expiring.

23:56

Thank you, sir Dr Haycock, for the applicant, yes. In essence, yes, yes, sir, I think our position of regarding the protection against legal challenge would apply to any period less than five years. So were the Secretary of State minded to grant DCO set set for three years, then that wording of three years would be used in conjunction with the protection set out in our response to your DCO.

24:26

Okay, and is it? Are there any other examples other than Manston, which that approach has been taken, that you're aware of,

24:37

not that I'm currently aware of? So no, we can have a look, and we can respond at deadline 10 with our final GCo, potentially. So if that's help, yeah, and we can also draw further parallels with the position the CPA 1965 if we are reverting to a three year period case, that might help. So. But yes,

25:00

he would thank you very much.

25:10

So that moves me on. Then to item six, just in terms of any outstanding consents licenses or other agreements which may be necessary. Can the applicant provide us with an update of progress with

regard to these and the timescales of anticipated for completion of any licenses and agreements?
Applause,

25:49

this will be So Andrew, take that, because this will be Steve COVID, who's senior, senior project manager speaking to this.

25:58

Stephen COVID, Senior Project Manager for GCC, responsible for moving project forward through the next phases, post DCO, successful? Yeah, we'd be aware that we submitted the Gantt charts. Think it was deadline seven, I believe, which was only about a month ago, but we have made quite a bit of progress since then in moving forward with the detailed design. So we're currently working on fixing the horizontal alignments of the road and developing the geotechnical and structures design sufficient to inform other disciplines which are due to come on stream in the next month or two, and we have a design freeze scheduled for the ninth of December, which would allow those follow on disciplines to start To get involved again. With regards to environmental surveys. We have done the late summer and autumn surveys, as per the program. We've also submitted a deadline nine yesterday the results of our geophysical surveys, which will inform the trial trenching, which we will need to do in the next phase of the site investigation for the archeologically towards the archeological management plan in terms of flood risk and permits and fish rescue, which are also activities which we had scheduled to start, we are developing the structures design, as I just mentioned, and alongside that, the construction methodologies for construction of the structures within the floodplain, which are the main areas of interest when it comes to the flood risk, risk Activity permit. And we've also submitted a deadline nine river channel diversion management plan, which has reference to the fish rescue which, so we are starting to develop that as well. But basically, yes, we're on track with the activities that we said we would be engaging on during November. And basically, yeah, we'll just get on with it. And don't see any impediments really to achieving the dates that we've set out in the program.

28:34

In terms of the specific permits and licenses you're able to go through those this morning, setting out exactly what it is that you're, you're seeking, and I understand that you're, you're on track, but just in terms of the specifics, is it just the flood risk construction permit, or are there others? Presumably there will be,

29:05

yes, there were a number set out on the Gantt chart that we submitted a previous deadline. A lot of those activities not due to start until January. But each of the plans that we sorry, each of the consents that we'll be requiring were and the discharge requirements were all set out on that Gantt chart that we provided. I can get it up and go through them, but as I said, most of the activities don't start until the new year.

29:40

Yeah, I think if none of them are actually commencing until January, there's probably little points in going through them this morning. It's just a question of making sure that we fully understand so that we

report properly to the Secretary of State, what. The list of consents and permits is that you're going to require, and that we properly understand when it is that they are likely to be pursued, and whether there are any likely impediments to them being granted so that they're sort of the three main elements that we really need to be able to advise the secretary of state of at

30:33

the moment, we don't see any impediments as a correct in that lower activity to some starts or January. I think that the ones that I mentioned, the fish removal license and flood risk activity permit, are the only ones which we've started on in any form, the only other ones which were on our which were on our Gantt chart for being started by now with a water obstruction and discharge license. So I didn't mention it, but we've also been installing pizzaometers During the last month so we can monitor groundwater and the hazardous waste registration, which is quite a lengthy process, we've engaged in environmental specialists dealing with hazardous waste to help move that forward. But at the moment we we don't see any impediment, and other than going through it line by line, I'm not really sure what other confidence I would give you on that at the moment, sir,

31:33

okay, no, that's fine. As far as it goes in terms of that hazardous waste element, is that something that you get from the local authority or from the Environment Agency,

31:52

I believe it's a local authority, but I'll have to, we'll have to get back to You on that and submit that to written

32:01

responses.

32:03

Okay, thank you.

32:12

I think then the only other matter that just wanted to confirm with you that there are no actual legal agreements proposed that we need to be cognizant of in support of this. DCO garri

32:30

Solomon, for the applicant, the only agreement, sir, is the side agreement with national highways, which already mentioned, which you don't need to see, but I think you will need to be aware of has been completed when it's completed, because that will then remove, or should remove, all of the outstanding concerns of national highways, and currently we're aiming for the end of the examination for that to be completed.

32:57

Okay, thank you

33:02

so Andrew Tate for that, if I can answer, if it's thought helpful, we can update the consents and agreements position statement at deadline 10. So it draws together the position on consents that has been indicated, but also

33:20

agreement that some of this was mentioned

33:24

again That would be extremely helpful. Mr. Tate, thank you. I

34:07

I think that moves us on to the next item on the agenda, which is sub point seven, concerning flood risk and water quality. And I think first place would like to go with that is with respect to the applicant's change application consultation statement and the content there, with respect to table 4.2 which sets out the summary of responses with respect to change application two, I think there's a few questions that collectively, would like to pose, principally to the applicant and also seeking the views of the Environment Agency and the joint councils where appropriate please.

34:56

And firstly, with respect to reference to within table. 4.2 there's a consultation response set out there from elmstone HARDWICK parish council, and that seems to basically identify some concerns with regards to flooding and Lee brook in particular. And firstly, can I invite the applicant to explain that issue and their current position with respect to that, please. Thank you.

35:25

Thank you, sir. Andrew Tate for the applicant, if I could ask Amy lay, who is the design manager from early contractor involvement, to to speak to that.

35:36

Amy lay for the applicant, so with regards to the change in Lee Brook, the scheme design that was originally submitted severed any overland flow, either under or over the top of the a 4019, which would eventually reach Lee Brook. So in the baseline scenario, as it is now pre scheme in a design flood event, which is 100 year plus 53% climate change, flows would over top the a 4019 and go through the existing culverts, through the a 4019 and reach Lee Brook. In the original scheme design that was severed and all flow was therefore all flood water, sorry, was therefore stored south of the a 4019 in the flood storage area, and as a result, we had a much larger reservoir. So the proposed change reinstates that flow path through the a 4019 through the introduction of two new culverts and the lowering of Whitney bridge underpass, which essentially means that the change will mirror what happens in the existing baseline scenario, and flows will reach leebrook. But we have maintained the outcome of the flood risk assessment, the original flood risk assessment, in that we will not provide any worsening to the lead Brook, so we are just maintaining the current flow scenario.

37:11

Thank you. So your position is, it is a betterment compared to the previous iteration of the scheme, pre design change,

37:21

and so it's investment in terms of the wider implications of the reservoir. So the previous solution required the a 4019 road embankment and the m5 road embankment to act as impounding structures which had quite significant maintenance responsibilities for national highways and the applicant. So the betterment with this solution is that those structures no longer impound the reservoir, but the change does not result in any change to the effect on the book

38:04

Understood? Thank you. I note in your response in that table that there was some associated modeling that had been provided to Environment Agency for their opinion with respect to the appropriateness of the changes you've just outlined. Is the Environment Agency on the call please.

38:32

Good morning, says

38:32

Noreen Nargis from the Environment Agency,

38:35

good afternoon, yes,

38:37

oh, sorry, good afternoon. I

38:40

was just wondering if I could invite your opinion please, with regards to what the applicants just said and the appropriateness of the changes, and indeed, if you have any any comments you'd wish to share with at this stage with regards to the modeling that the applicant has provided to you. Well, we've reviewed

38:57

the updated modeling and the updated addendum for risk assessment. And we're, we're happy with the changes, the change of application to we've got no objections, the models fit for purpose. And we've, we did send our formal response to the applicant on the 11th of November, just asking for a slight amendment, so a few changes regarding documents and but other than that, we've got no further issues.

39:32

So in terms of those minor changes, what, what can we expect to see in front of the examination with, with regards to those we would

39:42

like to see the flood risk assessment updated, not just providing us with an addendum, Fra which we clearly stated in our response. And apart from that, there's regarding biodiversity. We change six it was regarding fish, make sure that both River, chelten, Lee Brook. Apart from that, there's nothing else that I can say which is outstanding.

40:16

So the biodiversity point, how is it that you've requested that that's dealt with.

40:24

Basically they haven't considered change on fish. Has not been considered the impact of the change of fish. So we would like them to review that.

40:35

Okay. Thank you. So going back to the applicant, can I just confirm, really, what your position is with regards to those EA requests. Is it your intention to update the flood risk assessment and in addition to the addendum and deal with the biodiversity concerns that they've articulated? Please,

41:00

if I take the biodiversity point first, we have provided a response with regards to fish in our consultation statement on that one, it is something that we are aware of, and we will look to address through detailed design in consultation with the Environment Agency with regards to the flood risk assessment addendum, we'll take that one away, and we'll respond in writing, based on review of the remaining time available.

41:36

Can I just clarify? Obviously, the Environment Agency have raised this issue with regard to the fish. Have Natural England made any comment with regard to the fish and their position in light of the change design, and have they confirmed they are content with the position of the application and the detail of the design as it stands at the moment is sufficient to be left to future detailed design in due course,

42:20

anybody for the applicant, Natural England have not provided any specific comments on fish or particular ecological species. They made one comment, I believe, on biodiversity, which we have responded to in the consultation statement. So yes, no, no representation specifically to fish.

43:00

Thank you. That's that's helpful, so be, yeah, helpful for us to see where exactly we get to with regards to whether we are going to see an updated flood risk assessment. Please, can I just go to the joint councils please, in the capacity of local flood authority, and again, invite any any comments or issues with regards to what, what we've just heard with regards to Lee Brook and the implications of the change request on flooding, please,

43:34

and it hadn't for the joint councils. I will ask Rob Sewell to respond on our behalf on that point, thank you. Thank you.

43:46

Yes. Good afternoon, sir. Yes. So regarding the change to and the update the flood risk assessment addendum, reviewed the addendum and the additional information on the updated modeling that's been undertaken regards to that change, the addendum sets out the results of the modeling, the design, including the changes, and confirms that there are only minor changes in flood depth in general, no significant change in flood expense or impact on receptors with that change. So no no concerns or issues that the modeling indicates that there's, there's no material change to to flood risk.

44:34

Thank you. That's helpful. If I could just stay with the joint councils for a minute, please. And again, apologies. I'm just going to bounce around table 4.2 a little bit, but if I could have a look at item 16 now and again, this is a something which was raised by the Joint councils, and it's with respect to the link road drainage features. Are being altered from swales to filtered rains as part of the of the change application. And within item 16, if I'm reading that correctly, the joint councils are suggesting that filtered rains would provide a lower percentage of sediment removal than than the previous swale design. Is that? Is that a fair summation of what item 16 in the report tells me,

45:32

Andy Padden for the joint councils, I would prefer to rush knee, sir Dean for to answer this question,

45:39

good afternoon. Says, I Yes, there is a reduction in treatment and that that is stated within the change document. However, it's not enough to change the magnitude of treatment overall within the scheme, and therefore the there is adequate mitigation within the drainage system, treatment drain.

46:04

Thank you very much. I'm just mindful that from my reading of this table, and again, if I could perhaps direct a question to the Environment Agency at this point, with regards to table 4.2, item 23, and if I can just find where that is, it seems to be, yeah, it's included on page 33 of the 122 of that document. And item 23 from my reading of that so I think someone's not on mute there suggests that the Environment Agency are basically saying the opposite in their in their consultation response item 23 it suggests that a filtered range should provide better treatment than swales, rather than a lower percentage of removal. It's almost suggesting that the swales would provide the filter drain will provide a better treatment. Is that is my understanding of that correct?

47:11

So it's not an artist from the Environment Agency. Yes, that's, that's what we commented on. I can double check with my water quality, specialist, who's not available today, but I could get back to you in the actions, if you like.

47:28

I think that'll be helpful, because it just seems there's a bit of a disconnect between what the applicant's saying within the addendum es aligns with what the joint councils are saying, which is that filtered drains provide a lower percentage of removal teams, at odds with what the Environment Agency set out within their consultation response, which basically says that filtered drains should provide a better a better percentage of removal and better water treatment. So I suppose the the question that logically follows on from that is, are your findings with respect to item 23 your consultation response set out against item 23 still valid if, if actually the reverse is true and and effectively the filtered drains would provide a lower level of removal. But does that change your conclusions? Please.

48:28

I will double check and get back to you.

48:30

So thank you.

48:30

That would be helpful. Thank you. Applause,

48:40

I thank you for that. Could I just revert to the applicant at this stage, and given what we've just discussed there about the slightly different, differing opinions with regards to the the kind of percentage of removals and and and water treatments offered by swales versus filter drains. Can I just ask for the applicants position with respect to if that alters, alters their position at this stage. Please,

49:31

aim late for the applicant. No This would not alter our position based on the highways England, water risk assessment tool which we use to assess water quality, a filter drain does not provide an equivalent level of removal to a swale. So a swale, in terms of dissolved solids, Does, does provide greater removal. So. Yeah.

50:04

Thank you. Yeah. Okay, so that leads me nicely on to my next question, really, which with regards to the assessment that you've just referred to, that you've taken, with respect to the filtered reins. Could it? Could I just ask you to for the benefits of everybody attending virtually. Can you just explain to us what the highways England, water risk assessment tool is, and what we as exa should take with respect to the conclusions that it is a pass for all parameters? Thank you.

50:37

David Gray, for the applicant, so the tool essentially assesses the suitability of the design in terms of the surface water drainage solution provided, and then any mitigation that is put in place in the scheme, for example, attenuation basins or wetlands which offer greater removal of metals and sediments within the surface water runoff so you input your design, your surface water runoff design, into the tool, and it assesses whether you have sufficient mitigation to pass water quality.

51:31

Thank you. That's helpful. So effectively, it is an assessment in which you've replaced the previously proposed swales with filter drains and assessed the adequacy of the drainage systems as proposed, as we sit here today, to appropriately function and deal with the needs of the scheme. And your position is that that is entirely appropriate and passes all of the relevant

52:04

parameters. That's correct.

52:05

Thank you. Could I invite at this stage the joint councils to provide any opinions with respect to what we've just heard and the applicants positions with regards to filtered drains and the highways England water risk assessment tool, please Good afternoon.

52:25

Yep. I agree with the applicant. Summary of the highways England's water risk assessment tool, also known as Hura. It does take into account the differences between treatment efficiencies for filter drains and swales. What should be noted is that Hura assessment takes into account suspended solid dissolved copper and dissolved sink. And there are different treatment efficiencies, which may explain the differences between perhaps what the Environment Agency have picked up and what the Joint Council and applicant are saying in terms of treatment efficiencies.

53:12

Thank you. That's helpful. Well, I think we're going to get a written response which considers that. So that would be helpful. Thank you. Same question to the Environment Agency please, with regards to the adequacy of the highways England, water risk assessment tool, and what we've just talked about with regards to that and the and the filtered drains. Please. Is there any any residual concerns or issues that the Environment Agency wish to highlight at this stage, please, so

53:39

it's Noreen argues from the Environment Agency. Got no concerns, but I will double check with our water quality specialist and get back to you.

53:49

Thank you very much.

53:57

Again, if I could stick with table 4.2 and in particular, now just have a quick discussion with regards to item 18 on that, which was a consultation response from the joint councils. And within that, there was a request from the joint councils with with respect to the React item W e2 to to understand the that swale removal will not result in a change of magnitude of impacts. There's clearly a bit of crossover with what we've just talked about. But firstly, can I invite the applicant to explain their their position with respect to what the joint councils are saying at item 18 and table four two, please

54:43

Amy Blake for the applicant, yes, we consider this to be a repeat of the previous point with regards to the water quality properties of filter drain versus a swale. So no. No further comment.

55:03

Thank you. That being the case, is there anything else with respect to item 18 and the React point and the magnitude of impact that the joint councils wish to highlight at this stage?

55:18

There's no further comments at this stage. Thank you. Thank

55:21

you. And for completeness, the Environment Agency, is there anything else you wish to offer at this stage?

55:34

I'll take that as a no. Thank you. Applause.

55:48

If I could now just move on to specifically the requirements of the Water Framework Directive, and in particular article 4.7 of that, in light of what we've just heard, could I ask the applicant please to set out their position with respect to meeting the requirements of that article of the Water Framework Directive? Please?

56:13

Amy Blake, for the applicant, we'll come back to you in writing on that one.

56:22

Do Okay, that would be helpful. And I note that as part of the the change application documentation that didn't appear to be a an updated submission of the WFD assessment. So it'd be, it'd be helpful to know if it is the applicant's intention to upgrade the Water Framework Directive for assessment to be cognizant of those of those changes. And if not, why not? Please

56:53

Amy blank for the applicant. So as part of our assessment of the change application to we've reviewed the previously submitted assessment on the Water Framework Directive considered there to be no change, but we can provide a global responsibility. I

57:16

think that'll be helpful. I mean, obviously we're it's something which is is very clearly mentioned in the triple NPS with respect to decision making at section 5.225 and 5.226 so if there's anything in particular that you can give us To assist with considering the appropriateness of the proposals and it meeting the

requirements of Article 4.7 of the Water Framework. Director for think that that will be helpful for us. Thank you. Applause.

58:10

I think that's everywhere we want to go to with respect to flooding and water environment within table 4.2 but if I could just stick with that document for a little bit longer, when I move on to Item eight on the agenda, there are various other issues raised by consultees within that table concerning the matters, including ecology, water supply and various other other matters. Please, could I just invite invite the Joint Council? Councils firstly, and then the Environment Agency, just to highlight if there is anything in particular within table 4.2 and indeed, the response that the applicants provided that gives you cause for concern. Please, joint councils, firstly, thank you.

59:12

So Andy Padden for the joint councils, the nothing, as far as I'm aware, giving us any cause for concern.

59:21

Okay, thank you. So same question to the Environment Agency, please, is there anything else in that section? Section of the consultation report, table 4.2 with regards to any other matters raised by consultees, that gives you calls for concern. Thank you.

59:38

No. In August, Environment Agency, no, we've got no other concerns. Thank you.

59:45

Thank you. Applause.

1:00:00

Applause. Thank you so section nine on the agenda, please. And I appreciate that a lot of this may have been submitted yesterday, but clearly we don't have the benefit of that being in front of us or in the public domain. So if we could just pose some questions around some of the things that were posed and raised in third written questions, please.

1:00:37

I think that the first point I'd like to raise, please, is with regards to access to the safeguarded land and the court consulting deadline seven submission, which identified a number of different things, really, I mean, it's identified a number of vehicle movements that could be expected to enter the safeguarded land during peak harvesting, and it also set out the size of vehicles that that could be expected to undertake those movements. So firstly, and having regards to question 15.01 i one within third, written questions. Please. Could I ask the applicant, firstly to

1:01:41

sorry, no, I'd like to go to the joint councils first. Apologies, yeah. So having regard to what court consulting set out within the deadline seven submission, we posed a question, really, to see whether

the local highway authority had any opinion on the on the appropriateness of those those forecast agricultural vehicle flows and sizes of those vehicles have been reflective of existing and historic activity, please. So can I invite the joint councils to provide an opinion on that? Please?

1:02:21

Yes, sir, good afternoon. Andy PADD from the joint councils our deadline so line submission is what I will record. Read Out. This was a a response to the question that was put together by highways development management team of just Gloucestershire county council. And it reads, it is considered that the number of agricultural vehicle movements stated by the applicant at, sorry, not the applicant, by the the stakeholder at 192 per hour is wholly and unrealistic. Although harvesting machinery may have the maximum production capacity as quoted, the previous yields or operation of the farmland have not been substantiated. It is considered that the harvesting operation will not continuously operate at maximum capacity, or be required to solely use this access to service the total field area. It is noted that maize production yields approximately 50 tons per hectare. Therefore, with 16 ton vehicle capacity, it will require three trailers per hectare. It is considered the total movements will be restricted by the size of the individual fields, permitting the proposed layout to operate within with minimal opposing flows throughout the year. Statement ends.

1:03:59

Thank you. So in summary, then I think there's perhaps some concern that some of those vehicle flows are actually higher than would be expected to be associated with the historic agricultural use of that land.

1:04:15

Correct? That is, that is what high risk development team are summarizing. Yes,

1:04:23

so turning to the applicant, then, is it the applicant's position that, that this the scheme before us, and the and the design within, within that for agricultural access into safeguarded land and dealing with that and it's retained use remains fit for purpose and appropriate.

1:04:51

James cassmore for the applicant, we can confirm that we believe the existing design is suitable for the realistic number of movements and. To agree with the joint councils that the 192 Newtons proposed is unrealistic based upon the agricultural use and average yields.

1:05:10

Thank you. And just going back to the joint councils, please, in the capacity of local highway authority, is it your position that you agree with what the applicant is telling us and indeed agree with the appropriateness of the safeguarded land access provisions in front of us. Thank you.

1:05:31

James sorry, Andrew Padden, for the joint councils, yes, we do agree that the design is fit for purpose.

1:05:42

Thank you. That's helpful.

1:05:53

Before we move on. Is there anybody else online who wishes to comment on this item? I'm not seeing any hands.

1:06:16

If I could move on now to the third written question, 15, 03, and this is with respect to motorway junction slip road modeling. And it was something which national highways told us in their deadline seven response, with regards to some additional slip road modeling being needed. Is there anything which may stand against the proposals in terms of highway safety or appropriate operation of the strategic highway network? For the applicant, please, I don't think we have national highways on I

1:07:09

Steve Case Mark, on behalf of the applicant, we have undertaken some further analysis of the modeling that was done for DCO under the temporary construction situation with both slip roads closed at the m5 junction 10, to analyze the queue, the impact of that on queue lengths both at junction nine and junction 11 of the m5 we have presented that information to national highways, and what that has shown is that, with the exception of the southbound offset junction 11, the queues do not extend back onto the main line. High Speed road network, strategic road network, and therefore have no safety implications for national highways and the operation of of the SRN with regard to the southbound off slip the we have done some analysis looking at potential temporary traffic management arrangements to alleviate The potential for automated potential for the queue extending back into the main line of the m5 and that has looked at temporary traffic signals at that junction, in combination with some temporary changes to the lane allocations or lane markings on on the off slip to get better utilization of the lanes, and that modeling, sensitivity test modeling has shown or demonstrated that that does remove the issue of queuing back onto the main line. And national highways have, as I understand it, and will be, I think, will be confirmed in their submission, have satisfied that that the that the issue can be appropriately mitigated through temporary traffic management measures, but have asked for a small amendment to The draft traffic management plan to incorporate a specific reference to the need to do more detailed modeling at detailed design stage to confirm the exact type of temporary traffic management measures To be introduced,

1:09:40

understood. Thank you. So, so the modeling that was referred to within that deadline seven submission to help me, it wasn't modeling of any of the slip roads associated with the DCA proposal itself at junction 10. It was, it was effectively the the construction stage implications for the slip. Road closures at the adjacent junctions.

1:10:01

Yes,

1:10:04

under correct Understood. Thank you. That's helpful. I'm seeing a hand up in the room.

1:10:13

Good afternoon, sirs. Sophie Stewart from DLA Piper, on behalf of National Highways, we have indeed been here Good afternoon and listening. It is just to confirm that everything Mr. Kate's mark just said is correct, and once that amendment to the drive traffic management plan has been made and submitted, national highways have no remaining concerns regarding safe operation of the SRN during construction.

1:10:43

Thank you. That's helpful. Applause.

1:11:05

Thank you. If I can move on to a slightly different matter now, which is sustainable transport provision within the scheme, and it's something which was poses the question at EXQ three, and it was question 15, 04, which we we pose to the joint councils please, the applicant provided a deadline seven local policy review, which sought to identify the active travel provision embedded within the scheme and how that meets the requirements of the triple NPS. Can I please just seek the view of the joint councils as to having consideration to that deadline seven local policy review, is it? Is it your position that the DCO scheme doesn't does indeed fulfill reasonable opportunities to enable other transport modes and respects the requirements of your local policies? Please? Thank you.

1:12:02

Andy Paddon for the joint councils, we've responded to that question in deadline nine, and our response is the applicant's deadline seven, submission. Rep 7010, has not changed the joint Council's position, as set out in paragraph two, point 8.26, of our own deadline service, submission seven, submission rep 7018, which reads the joint councils accept that the DCO scheme provides compliance with The local plan policy and NPN, MPs, nn, paragraph 5211, joint councils need to be reassured that at the ends of the DCO scheme, connections are provided to the existing active travel network. Beyond the end of the scheme, the active travel routes plan shows connections from the strategic allocation sites to the east, along the A, 4019, corridor beyond Gallagher business park. To the north, along an on road quiet Lane bracket, stoke road route starting at the Gloucester old spot public house, and along the b4, 364, corridor as far as the land owned by Mr. Hadley, but does not show connected, a connection to the recently completed active travel network on the b4, 363, it is that it is the view that of the joint councils that individual planning applications, as they come forward, will fulfill the remaining provision in consultation with the local highway authority and with active traffic travel England. Answer ends,

1:13:49

thank you for that. I think I've asked all of the questions that I want to under that item of the agenda, traffic and transport. But before we move on to the next item. Can I just invite anybody who's virtually attending to raise their hand if there's anything they wish to raise within this item of the agenda, traffic and transport. Please. Not seeing any hands. Okay, so if we can move on to sub point two, please, and it's with respect to noise mitigation on stoke road through stoke orchard, please, and again, it relates

directly to third written questions and perhaps an answer that was submitted at yesterday's deadline. But in essence, it's to do with question 12, 01, and firstly, can I invite the applicant please, given given the the the position and the development of that Mitigation Scheme, are you in a position to outline to us, really? Um. Any kind of further developments with the scheme, and specifically, if you can confirm any levels of noise mitigation that that scheme would provide, and if it will can give us any comfort, really, that it will adequately mitigate the operational stage significant effects identified in the environmental statement. Thank you.

1:15:20

Thank you, sir. Andrew Tate, for the applicant. So as you anticipate, we have sought to address this in answer to your question, 501 at the third round of questions. And in summary, the methodology for calculation of road traffic noise, CC, RTN, has been used to determine the likely benefits of the Stoke road traffic calming scheme based on the operational noise predictions at Stoke road and set out in the yes chapter six. And it has been determined that the change in traffic speed, as well as the potential change of traffic volume with the Stoke road scheme implemented, would result in no properties in Stoke orchard experiencing a one dB or greater increase in noise level as a result of the scheme, and therefore the Stoke road works would mitigate the effect of the scheme the previous the ES identifies significant effect because one the noise levels of noise levels exceeding the daytime so 68 DB and an increase in noise of one dB, plus, with the scene, the reduction in speed to 20 miles an hour, which is part of the proposal, would result in a reduction in noise of 1.8 dB, and that reduction was predicted using the change in speed alone, and doesn't take into account that the volume of traffic will also is also likely to decrease through stoke road, but simply taking account of the reduction in traffic speed alone, so indicated results in a reduction of well results in a reduction of 1.8 dB, meaning none of the properties would experience a one dB or greater increase in noise compared with the predictions In the environmental statement. So in other words, the significant effects reported would be removed.

1:17:48

Thank you. That's helpful. Can I just revert to the joint councils, please? And again, we pose this question, 12, 01, to the joint councils as well. Is there anything that that you'd wish to offer with respect to what the applicant's position is and the adequacy of the noise mitigation to appropriately mitigate the operational stage significant effects, please. Mr. Padden, thank you.

1:18:14

Yes, I would revert to Henrik Melker online to be able to answer that question, please.

1:18:20

Thank you.

1:18:27

Good afternoon, sirs. Henrik, for the joint councils, I agree with applicant. It's likely that it will be removing the significant effects, assuming that it's not re baselined, so assuming that it's a mitigation part of the scheme.

1:18:50

Sorry, what do you mean by Re baselined?

1:18:52

Oh, if it's a separate scheme that is sort of assessed before the scheme. And then you have a baseline, which is the improvements based on the speed scar me, the speed calming scheme itself. And then you assess, sort of the effects on top of that. So compared to the baseline that is now before the speeds calming and the speed calming and the m5 junction 10 scheme are together assessed. Okay,

1:19:29

so, so effectively, by Re baseline, you mean the difference in noise levels with stoke Road in its existing format versus stoke road with the traffic calming in place, your position, the joint Council's position, is that adequately mitigates the the noise effects identified within the ES,

1:19:50

yes,

1:19:51

thank you. Is there anybody else online on the. Meeting that wishes to provide any comments or inputs with regards to this item on the agenda, with respect to noise and mitigation on stoke road through stoke orchard, please not seeing any hands you

1:20:33

so I think that moves us on to sub point three, landscape and visualization. Mr. Mond,

1:20:40

again, it's a third written question we pose, and just understand the position with regard to the changed profiles of the road design following on from the design changes, take on board as part of application change request number two, can you just clarify for us what effect those changes have in terms of landscape and visual effects, please. That's to the applicant.

1:21:06

Thank you, sir. Andrew Tate, for the applicant, we had hoped to have a visualization being able to be submitted last night. That hasn't proved possible, but we hope to have that by nine a but what I'm going to do is ask Colin Cartwright to by reference to existing material, to perhaps give an indication as to what that visualization is will show, and turn to him by reference to existing material.

1:21:41

Thank you. Drew so COVID, I tried for the applicant. So as a general point in relation to the original question around the effect on the visualizations, so that's rep two, double oh three to rep two, double oh seven, that are already, already in examination, we have reviewed those against the change application request number two, so showing those design changes, and it's only visualization from viewpoint two, so that's rep two, double o4 that is affected by the design changes. And even with that, it's only affected very slightly. So none of the other visualizations show the design changes and are therefore not affected by those design changes. So as my colleague just said, we are producing an updated copy of

that visualization from viewpoint two, and we expect to submit that into visual inter examination for deadline nine a So in the absence of that, I would just like to talk you through the changes in that visualization that will occur as a result of the design changes. And what I've got is a what I'd like to show is, is the existing visualization too, and then a schematic of the design change for the link road. Can

1:23:12

you bring that up?

1:23:13

Thank you. Um, I don't know if I can be granted sharing access. I just realized

1:23:19

that's been blocked, and I don't know if Mr. Hall can enable that for me.

1:23:29

Is that something the case team can facilitate? Please do?

1:23:48

Since before.

1:24:02

I sorry. I just missed that. What did he say?

1:24:08

The applicant is seeking consent to get access through teams so that they can display a plan, so it's just, is that something you can facilitate for for us.

1:24:32

Sorry, access to

1:24:35

Yeah, hi, hi, Tim, it's okay. Cough. Here. I'm joined this call separately, as a separate user, you'll see my initials as DH. I need to have access to share, which I just realized, has been blocked on this occasion. Previously, I've been able to share. Okay.

1:25:16

Hopefully that should work. Yes, I

1:25:29

Okay, great. Can Can everybody see that image on the screen? Now we've got a copy of the existing visualization from viewpoint two, and then a copy of the plans for the design changes in that area. So the visualization is rep two, double oh four, and the drawing at the bottom is an extract from as 086, which is a change report.

1:25:58

Yeah, we can see it. Is it possible to zoom in? Because, yeah, that's great. Thank you.

1:26:06

Okay, so this is the visualization from viewpoint two. Viewpoint two is to the west of the link road, looking east and north of the river. Chelt. So the the view we're looking at there is the New River child bridge, and the embankment to the left is the embankment from the river child bridge to the north, and then you've got the corresponding embankment going to the south that's more obscured by the existing trees that are, that are there. So this is the only visualization that shows design changes. And the changes show are design change three, which is river Shel bridge, structural form, and design change four, which is link road, vertical alignment. So design change three, which is the river shell bridge structural form, will result in a small change in the appearance of the wing wall that is visible if you go up again, because the design change three will alter the skew of the bridge over the river. So the appearance of the wing wall will be slightly different. The design change for which is the link road vertical alignment if you scroll down now, Doug, so the figure there at the bottom is the side view of the link road embankments. We've got the bridge towards the left of the image, and the blue line is the alignment in the preliminary design that's shown in the visualization. And the red line is the is the road alignment in the design change. So as you can see, the design change results in the road dipping more steeply downwards to the south of the link road bridge, so to the right of the bridge in this image, and then raising ever so slightly in the to the north of the bridge, so on the left hand side of the of the bridge in that in that image. In terms of how that will change the visualization, if you go back up again, Doug, Q, so you can see two vehicles in the visualization, the blue truck, so the embankment there will be slightly higher just north of the bridge. That's roughly not point, three meters higher, and then the white, the light colored vehicle to the right, the embankment will be lower in that point at about 1.5 meters lower. And that's the that's the change in the visualization. So they're very minor changes.

1:29:19

Hope that's useful.

1:29:22

Yeah, I think it is just in terms of the relative height of the road to the embankments, because the embankment is going to form the landscaping to screen the road in due course. Yes, yes. Do the relative positions remain equivalent to the those on the image now, or is there an adjustment between the road surface and the embankment height in the change request? Do.

1:30:01

A colleague, Cartwright for the applicant. So the the road height relative to the embankment is still the same in that the road follows the embankment up and down over the bridge. The design change will result in a so at the moment, the design shown there to the south of the of the river bridge, to the right of the picture, there is a steady gradient of the road and the embankment falling to the right of the of the image. In the design change the that ball will be steeper. So the the road will drop more steeply from the bridge, and then it will then flatten out, as shown by that red line on the image at the bottom there. So the the overall design of the of the road in terms of the embankments and the highway, that plan

remains the same in that we have a road supported by embankment. It's just a height of the embankments. The planting design is intended to be the same as the existing design.

1:31:23

So if I'm understanding that correctly, there is going to be a negligible effect on the landscape treatment relative to the change, because it's largely going to have a similar mitigating effect to that which was originally set out

1:31:47

con Carter of the applicant, Yes, correct. The landscaping design will still be to plant blocks at the embankment in the same way we have an existing design to help fit the link road into the existing landscape. The effect of the design change will be to lower the embankment to the south of the bridge so that will drop it further down into the existing landscape.

1:32:16

Yeah. No, that's helpful. Thank you. Applause.

1:32:27

Okay, that's a helpful contribution. Look forward to receiving the submissions at deadline nine a on the actual visualizations that move on then to the latest on heritage. Obviously, when we had our last set of hearings, there was a suggestion that there was some non designated heritage assets that had not been picked up. And I, I believe that that's been confirmed as part of third written questions, we just sought clarification from the councils in the first instance that there were no other assets that had not been identified. So can the joint councils confirm that that is the position? Please. Andy

1:33:17

Paddington for the joint councils, unfortunately, no, we can't. The chugsby borough Council's conservation officer has unfortunately been unable to undertake a full site survey of the proposed development area. However, after taking a desktop exercise review, utilizing this the scheme general arrangements, arrangements, drawings, five further properties have been developed, identified, and these have been passed over to the applicant, who I understand has also answered this question.

1:33:56

These are further five properties that are not on your public list. Correct?

1:34:15

Can I then just come to the applicant, then to try and understand how you're progressing in light of these, this new information,

1:34:30

so common contract for the applicant, we received those details from the joint councils. There are, there are five properties, all we have currently is just the name of those properties. Two are outside of the current border limits, and we therefore don't expect those to be affected in any way. The three that exist within the order limits, we would need further information. Information from the from the joint

councils as to the reason for their categorization or consideration as non designated heritage assets. If we have that information, we could treat those properties in the same way we have considered the three properties at buckington with an update into the ES cultural heritage chapter.

1:35:31

So Andrew, take the applicant, just to make clear that at deadline nine, we did submit an updated copy of chapter 11 of the ES specifically to deal with the three properties that were mentioned, and that concludes that that there isn't a change in the assessment arising from those those inclusions, but In relation to the additional five properties, particularly the three that are within the order. We do need to know a little bit more as to why they've been included, other than just a simple reference to them existing. And then we will try and as best we can once we have that information, if it's provided urgently, provide a similar assessment to that which we've already done in relation to those previously.

1:36:33

Yeah, thank you for that, Mr. I mean, I'm I am concerned that we're left in a situation where the joint councils have identified quite late that there are additional properties and they were not on a public list. And clearly we have a duty to advise the Secretary of State with regard to specific legal tests on heritage matters, and the applicant has a duty to undertake an assessment relative to those So the onus is on the councils to ensure that their information is up to date and in the public domain. So what reassurance can I have from the councils that they are going to provide that information in a timely manner please?

1:37:33

Unfortunately, the chewkesbury Borough Council conservation officer is not on the call, so we would have to come back to you on writing in that respect.

1:37:47

They may not be on the call, but why is the information not already in the public domain?

1:37:53

Resources and availability of resources to put them on there on a list? I

1:38:11

I'm just trying. How can we properly advise the Secretary of State, bearing in mind the current position.

1:38:29

Well, you can't, because you're not armed with all the information that's available.

1:38:42

I think you need to be having conversations with the relevant people at the different councils to ensure there is information made available as promptly as possible. I think that's all I can ask you to do. Can I just come back to the applicant in light of the difficulty that is being presented here? Can I just seek your position with regard to your obligations on assessing heritage assets and what advice you might give to us in light of the statutory tests. I appreciate, that's probably a question that might be coming out

of the blue, and you may not feel that you can answer it at the moment, but I would seek your view on that, as to exactly where it's going to leave for people if we don't get that clarity.

1:39:57

So Andrew, take that. Can I answer that in Tuesday? Issues, first of all, in relation to actually getting the information, we will seek to elicit that further information as a matter of very high priority, having just been given the the names, so that we can as best as best we can be in a position to provide an assessment to this examination relating to the second point The test is in the NPS at five, 125 requires Secretary of State to consider impacts on other non designated heritage assets as identified either through the development plan process by local authorities, including local listing, which clearly doesn't apply, because that hasn't been the process through which these additional five properties have been potentially identified or through the nationally significant infrastructure project examination and decision making process, which is a structured process and which doesn't envisage the points coming again, that after such a late stage, but it then goes on to say, on the basis of clear evidence, that the assets have a significance that mere consideration in that process. So at the moment, there isn't that clear evidence. That's the current position. We will seek to see whether there is clear evidence and try and respond as best we can, but it's the process of identification. Is the first instance not applicable the development plan process and then the second through the NCIP examination decision making process. Envisages a structured approach. These matches coming forward somewhat earlier in the process, but I hope we're in an interposition where there's other clear evidence one way or the other. I don't know which way it will turn out, and then that enables us as on a rapid response basis, to be able to assess that and provide that to you. And if we can do that by deadline nine A, we will do that by deadline nine A, because it gives a chance for others to respond.

1:42:38

Thank you very much for that, Mr. Tate, I appreciate that the National Policy Statement sets certain tests, but there are obviously certain legal tests for heritage that sit alongside that, and I just want to make sure that we are properly advising the Secretary of State in respect of those legal tests. And obviously I'm concerned at the moment that there might be some missing information, which has meant that you've been unable to undertake an assessment of effect on those non designated heritage assets. And quite where that leaves us in advising the secret state at the moment, I'm really not sure, but let's hope that the information is provided very promptly. I think the joint councils will understand the urgency of the situation, and I don't think anybody would wish to see this causing a difficulty down the road.

1:43:49

So Andrew, take that, yes, I take your point about the legal requirements, which I didn't address you On and we are COVID sent to that too. I

1:44:34

I think from what you said so far, that you've been given a list of five additional properties, three within the red line boundary of the DCO order limits and two that are outside. Obviously, we're not familiar with where the two outside are and how distant they are from the order limits themselves in terms of discount. The effect is that something you've been able to assess because of the separation, distance

or so that you're confident there's no material effect, either in noise, visual or any other element which might affect those heritage aspects

1:45:24

so COVID Carter up for the applicant. So we can't fully assess that yet, without that information on the reasons why those buildings are considered to be non designated heritage assets. But the expectation is, is that because they are outside the order limits and are several 100 meters from any any works for the scheme, that they would not be impacted by the scheme, that would be the expectation. But we would need to see the information, some further information on those buildings in order to confirm that I was just trying to give some sort of initial information on that, given where we are in the process,

1:46:11

yes, I understand that. I think clearly at the moment, as part of your submission, we have an ordinance survey plan with the various heritage assets identified on that, I think so that it's clear for us and the Secretary of State, in due course, when that's updated with the additional properties that have been identified, I think it would be helpful if you can show those in a different color, because the secretary needs to understand the order of events, if you like, and also we need to be able to explain the additional work that's been undertaken in light of the later identification of these particular properties. So if you're able to facilitate that for us, I think that would be helpful, in addition to the council, hopefully being in a position to confirm that, we now have a full list. I

1:47:24

Okay, I think the only other heritage element, I think that you confirmed earlier on in as part of the hearings that you've now concluded additional trial trenching in respect of the archeological assessments. Have you had any further responses from the joint councils on those works? Or is that something that is awaited? The common car try

1:47:54

for the applicant. So just to clarify, it's the geophysical survey work that's been undertaken, not the evaluation, trial trenching that will follow later, the geophysical survey work is sort of the first stage in that next level of investigation.

1:48:16

Thank you for that clarification for me, but I suppose the point remains. Have you yet had anything further from the councils in light of those studies now being concluded? So

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COVID, car, truck, the applicant. So the results of that survey work have been shared with the Gloucestershire county council archeologist and the archeological management plan is being updated to reflect the results from that geophysical survey work, in consultation with the GCC archeologist, and we will submit a revision one of that archeological management plan into examination for deadline, 10.

1:49:09

Okay, that's helpful. And I think in terms of, I'm assuming that it will be included within the statement of common ground, the final position of yourselves and the joint councils with what the agreed position is on that archeological information

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of the applicant, yes, that's correct.

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Thank you.

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So that helpfully then, well, I'll just check that there's no one else, whether it's the joint councils or other parties, would wish to make any further comments on on heritage matters. No, okay, I'm not seeing any raised hands. Thank you. So that moves us on. Then. Just to the statements of common ground and principal areas of disagreement summary statement. So can I just then clarify with applicant what the position is with regard to the statements of common ground, and if we can go through them in turn, starting with the Environment Agency, please,

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please note Tim fierce for the applicant so CGS, as you've suggested, in terms of the Environment Agency, as things stand, all matters are agreed subject to final review of the change applications. So all matters relating to the application with, without change applications are agreed. Which is the change application elements, as was alluded to by the environment HD, earlier in today's proceedings, they've confirmed that the model in relation to the change application is fit for purpose, and I suggested slight changes with relation to the FRA Addendum and the impact of the change on fish. Obviously, we'll take that away, and that will be reflected in our final position that will be submitted at Mark 10.

1:51:21

Okay. Thank you. And then with national highways.

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So Carrie Solomon for the applicant, so progress has been made national highways on the statement of common ground. The proposal is to put an updated statement of common ground to you at deadline 10, and that aligns with trying to resolve the outstanding matters through the site agreement.

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Okay, thank you. And then with the joint councils.

1:51:55

Tim, PS, for the applicants Joint Council, sir, the final statement of common ground is with the joint councils for their review, and the hope is for signing outstanding matters that are being tried to be moved. In conjunction with that we've already alluded to in previous agenda item is the review of the archeological management plan and final comments from the council archeologists that are being addressed and agreed. There is also an outstanding matter in relation to funding, specifically with

regards to, obviously, the quantum and timing of section 106 and still, monies, which, obviously the joint councils they are bas has determined authorities will not wish to predetermine any processes that they will need to go through in the future, so that that is still being discussed and that will be an updated position at deadline 10 as well.

1:52:55

Thank you. And then the various house builders that draft statement of common ground have been prepared for what's the latest with those

1:53:04

so we've met with the majority of developers from all sites. This month, we have received responses back on the most up to date so CGS from the west of Cheltenham and North West Cheltenham allocations. We were waiting to receive final review from safeguarded land from, if I deal with the design elements, mainly for for the west of Chelm I think there's some minor detailed design matters which they're just seeking confirmation that the way which the scheme interplays with that development site, that the two elements can can intertwine effectively. So we're just looking to confirm that the detailed design can consider those adequately. So that's that's that would then move that to a matter that's agreed, obviously, with regards to funding, dead weight and those elements, there is a there's some agreement at some disagreement. Obviously there with the nature of discussions between the parties, I think they're accepting of the forward funding proposals and that strategy. I think there is still some debate over the final methodology, although there is some movement with that regard, which I'll ask my colleague Nick to discuss shortly, and ultimately, the safeguarded land supported ransom position is still obviously a matter of ongoing discussion, and may not reach agreement between parties before the closing examination, but we were still endeavor to do so. I. But again, all sscgs will be updated and submitted at deadline 10, and it's on track for that to happen.

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Thank you. There was also one from which referenced Historic England. I appreciate David. So just what's, what's the situation with that one? There's,

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I think there's a there's three outstanding matters with starting and some some excuses are historic matters anyway that relate to the DCO and updates that have been made which haven't had confirmation that the updates have been accepted. The updated archeological, archeological management plan has also been shared with Historic England for their consideration. That has triggered an exchange of correspondence, and we now understand that they will be coming back to us on all matters outstanding this week, so that we can incorporate any final comments into the final access CG, but we do not see any improvement as to why those matters could not be agreed.

1:56:04

Okay, that's helpful. Thank you. And then Natural England is, I think, the last one on my list.

1:56:09

Yeah, Natural England, all matters are agreed, and we're in receipt of the silent version to be submitted at deadline, with regards to so alternative development. SDG, so would it be beneficial to provide further information on the funding element of those sscgs and any movement without regard?

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Yes, I would. Thank you. Yeah,

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I'll just just exchange seats with good

1:56:51

afternoon. Nathan drover, for the applicant, I'll very briefly update on the position arising from the socg So with laws and the Simmons at North West Cheltenham, the current SOC G draw includes some wording which falls into beef agreed territory at the moment, and laws of Sims have agreed that it can be public. And that is that the the applicant agrees that 20 million funding contribution proposed by law homes and homes is a proportionate contribution for the ELMS park development, subject to some conditions being met, so that that proportionate contribution is in line with our current funding apportionment methodology. But when you receive the socg, you'll you'll find that the developers are protecting their position in connection with compliance with the CIL tests, the policy and the severity of their impact, etc. That is, of course, still subject to the LPA determination local planning authorities determining authorities moving to the west of Cheltenham that socg is but those applications are a lot further behind than West Cheltenham, and they have submitted viability reports to the local planning authorities HBD have, and we're expecting the savings and maintenance. So those viability reports are likely to delay the ability to get any agreement into the socg for the worth of Cheltenham Senate fund, the safeguarded socg. We still haven't got that back, so I can't comment on whether or not that will include any commitment to funding, but see that's into the SLP period. And then finally, we have got a revised letter of support back from all of the developers. So that's laws, Simmons, nema st mod wins, HPD and GCC as landowner, and that just provides some updated clarification on the position concerning strengthening the planning policy position through the SLP. Thank

1:59:20

you very much.

1:59:28

I'll just open it up to the room then to see if any of the parties who are subject to statements of common ground have any thing they would wish to add or clarify following what you've heard. No, okay, so that that's fine. So I'll just then move on to national highways and your just you can give an update on the principal areas of disagreement, summary statement and where I. We are with that. Thank you.

2:00:08

Thank you, sir, Sophie Stuart for on behalf of national highways. Similarly to the statement of common ground, the pads is being updated at the moment, and a new iteration will be submitted for deadline, 10 most issues should be resolved by the conclusion of the side agreement. There are a couple of, I would

describe them as minor issues still outstanding, which largely will also be resolved if change application two is accepted, so it's it should be a significantly shorter document, but it will come in full deadline 10,

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when you say, if change application two is accepted, is there any it has been accepted. So I assume that will put any issues in that respect to bed. So that's

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right, if the recommendation is to follow the amended proposals and change application to then it resolves

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the issues.

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I think in having accepted the changes, we will now consider the application on the basis of those changes. That's my understanding of what the applicant is now pursuing, and so I'll get the applicant to confirm that, but I'm sure that's the case, just if the applicant can confirm that my understanding is correct.

2:01:48

So, Andrew, take the applicant. Yes, I can confirm that.

2:01:51

Thank you. So again, I assume that national highways are going to provide us with a relatively brief document, then deadline 10, that's correct, sir. Thank you very much.

2:02:16

Right. Then that moves us on. Then to item 11. Any other matters, so I really just open that up to the room see if anyone wishes to raise anything further. Are there any outstanding matters that you would wish to bring to our attention? No, okay, so that then just moves me on to review of issues and actions arising. Just bear with me a moment again, I'll pass over to my colleague to just take us through the the action points I

2:03:05

thank you.

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So that the first one is with respect to protective provisions, and it was for the applicant to provide a letter confirming the agreement of those with BT open reach. The second action was for the applicant and national highways to provide a note confirming the status of the side agreement demonstrating funding is available and no bond is no bond is required. Please by the end of examination for that one. The third action point is for the applicant to provide examples of other DCOs over and above Manston airport, which have differing provisions with regards to timings of the of the CA, please. Fourth Action

Point is for the applicant to provide an updated consent and agreement statement position please. The fifth Action Point is concerning the replacement of the swales with the filtered rain. And it's for the EA please, just to go away and confirm your specific position, because it seems that it was at odds with what the applicant and the joint councils is saying. And if you can come back to us and confirm your position on that, that would be helpful please. Action Point six is with respect to the Water Framework Directive, and it's for the applicant to provide a written response and set out their specific position with regards to compliance with the triple MPs, and in particular, any any conclusions we can draw with regards to decision making at paragraph 5.225, and 5.226 of that document. Two. Action Point seven is for the applicant to submit an updated view point two that was shared on screen earlier today with regards to landscape impacts associated with the road design changes included within application change request two, please. Action point eight is concerning non designated heritage assets, and it's for the joint councils as soon as possible please to confirm what those specific non designated heritage assets are, where they are and why they are considered to be non designated heritage assets, I think it will be, also be helpful if you could provide some kind of commentary with respect to why those are not within the public domain. Please action point nine, again, with respect to non designated heritage assets, and it's for the applicant really, to provide an updated assessment and position which demonstrates how the applicant has met their obligations with respect to the impacts of the DCO proposals on those non designated heritage assets. And the last one that I have is with respect to the SOGs that we were talking about, and it's for the applicant to provide a kind of update with respect to where you get to, with respect to the outstanding funding matters, with with the house builders and the discussions that you've had in that regard. I don't have any any additional. Mr. Mohan, I think

2:06:43

there was only one other item I requested that when you update your ordinance survey plan identifying the non designated heritage assets, those additional ones that have now been identified are identified in a different color, so that it's clear to us, and subsequently to the Secretary of State, the evolution of the scheme and the information available to all parties. Apart from that, just check again around the room that there are no other action points that we've missed, and everyone's content that they're able to provide responses to either deadline nine, a in some respects, or or deadline 10, as the case may be, I'll take the quiet as an agreement to that and so that then really just leaves me to thank everyone for their participation, not just this morning, But throughout the examination. Thank you for all your contributions, and I will now formally close this hearing it is eight minutes to two. Thank you very much everyone. Applause.