

**Principal Areas of Disagreement Summary Statement (PADSS) from National Highways Limited (“National Highways”)**

**IP ID: 20047703**

**Application by Gloucestershire County Council (“Applicant”) for an Order Granting Development Consent for the M5 Junction 10 Improvement Scheme (“Scheme”)**

**Planning Inspectorate Reference Number: TR010063**

Version Number: 4

Submitted at: Deadline 10 - 28 November 2024

National Highways Limited Principal Areas of Disagreement Summary Statement: TR010063

Point of Concern Number	Principal Issue in Question	Summary of Party's Concern	What needs to change/be amended/be included to overcome the disagreement?	Likelihood of concern being addressed during the Examination
1.				<b>Resolved - Agreed matter to be moved to SoCG</b>
2.				<b>Resolved - Agreed matter to be moved to SoCG</b>
3.				<b>Resolved - Agreed matter to be moved to SoCG</b>
4.				<b>Resolved - Agreed matter to be moved to SoCG</b>
5.				<b>Resolved - Agreed matter to be moved to SoCG</b>
6.				<b>Resolved - Agreed matter to be moved to SoCG</b>
7.				<b>Resolved - Agreed matter to be moved to SoCG</b>
8.	Protective Provisions	<p>National Highways object to the current Protective Provisions in the draft Development Consent Order and believe they leave both National Highways and the SRN exposed to excessive risk.</p> <p>The principle concern relates to funding security, to ensure delivery of the whole scheme, and the provision of a commuted sum for future maintenance of SRN assets arising from the scheme. The current protective provisions also raise other concerns for National Highways around control over detailed design and works to the SRN.</p>	<p>National Highways standard protective provisions should be included on the face of the DCO.</p> <p>Any departures from National Highways' standard protective provisions that are scheme specific and required are being discussed and could be included in a side agreement.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	<b>Low</b>

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10.				<b>Resolved - Agreed matter to be moved to SoCG</b>
11.				<b>Resolved - Agreed matter to be moved to SoCG</b>
12.				<b>Resolved - Agreed matter to be moved to SoCG</b>
13.				<b>Resolved - Agreed matter to be moved to SoCG</b>
14.	Draft DCO	<p>Transfer of benefits in article 10. Works packages which impact the SRN can be transferred to named statutory undertakers without Secretary of State consent. Whilst the protections and requirements in the DCO will transfer to the incoming undertaker, any protections contained in ancillary agreements between National Highways and the Applicant will not.</p>	<p>As set out in RR-06 (National Highways' Relevant Representation) some works packages in article 10 should be deleted from the scope of that article or any ancillary agreements with the Applicant need to contain a provision to restrict a transfer of benefits until those agreements are assigned or novated to the incoming undertaker.</p> <p>The parties have agreed the principle that ancillary agreements will contain a requirement to assign or novate them simultaneously with any transfer of benefit, however until such ancillary agreements are concluded the matter remains outstanding.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	<b>Very High</b>
15.				<b>Resolved - Agreed matter to be moved to SoCG</b>

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16.	Draft DCO/scheme design	<p>Article 13 - clarity over assets intended to be handed over to National Highways.</p> <p>Although works are to be completed to the reasonable satisfaction of National Highways where they relate to special or trunk roads, the DCO does not provide for the extent of off-carriageway works to be considered within this Article as forming part of special or trunk roads; nor does it determine who will be liable for highway assets which may be shared between the local and strategic road networks (e.g. drainage and lighting).</p>	<p>National Highways requires that any assets to be handed over to National Highways upon scheme completion are clearly subject to the agreement of National Highways, to ensure that the asset is acceptable to National Highways, including but not limited to pavements, fencing, structures, landscaping, drainage, lighting and noise mitigation.</p> <p>National Highways requires clarification of the proposed Operational Boundary for National Highways assets.</p> <p>National Highways requires that this is addressed by the Applicant to ensure that there are no inconsistencies or gaps between the draft Development Consent Order and National Highways' Protective Provisions and/or a side agreement.</p> <p>Discussions are ongoing between National Highways and the Applicant to agree a mechanism for resolving these issues as part of detailed design process.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	High
17.	Draft DCO	<p>Article 14 – classification of roads upon Applicant's certification.</p> <p>Notwithstanding the requirement in article 13 for completion of works to the reasonable satisfaction of the strategic highway authority, if the Applicant issues a certificate under article 14 before National Highways is satisfied, National Highways becomes the highway authority and acquires all of the statutory duties over the identified lengths of road by operation of law.</p>	<p>National Highways requires assurance that certification under article 14 does not take place until National Highways has signed off on completion of the relevant stretch of SRN. This can be contained in protective provisions or a side agreement.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	High

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19.				<b>Resolved - Agreed matter to be moved to SoCG</b>
20.				<b>Resolved - Agreed matter moved to SoCG</b>
21.				<b>Resolved - Agreed matter to be moved to SoCG</b>
22.	Draft DCO	<p>Use of deemed consent rather than deemed refusal where National Highways consent is required.</p> <p>National Highways is concerned if it does not manage to reply within the specified time limits, unmanaged interference with the SRN could occur. This carries significant safety issues.</p>	<p>National Highways requires that the deemed consent provisions in the draft DCO (for example, article 11, 15, 18 and 20) are altered to either (a) a deemed refusal or (b) deeming provisions are removed altogether.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	<b>High</b>
23.	Draft DCO	<p>Article 30 – airspace and subsoil of streets Consent from National Highways for any works above or below the SRN is required for the same reasons it is required at surface level.</p>	<p>National Highways requires any airspace or subsoil over or under the SRN not to be used without consent from National Highways. The inclusion of National Highways' protective provisions on the face of the DCO overcomes this.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	<b>High</b>
24.				<b>Resolved - Agreed matter to be moved to SoCG</b>

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26.				<b>Resolved - Agreed matter to be moved to SoCG</b>
27.				<b>Resolved - Agreed matter to be moved to SoCG</b>
28.				<b>Resolved - Agreed matter to be moved to SoCG</b>
29.				<b>Resolved – Agreed matter moved to SoCG</b>
30.				<b>Resolved - Agreed matter to be moved to SoCG</b>
31.				<b>Resolved – Agreed matter moved to SoCG</b>
32.				<b>Resolved - Agreed matter to be moved to SoCG</b>
33.				<b>Resolved - Agreed matter to be moved to SoCG</b>
34.	Funding	<p style="text-align: center;">Funding certainty</p> <p>National Highways is concerned that the funding for the scheme is insufficient and that the identified funding gap will not be adequately met by developer contributions. National Highways has concerns about (a) the policy position required to secure the contributions and (b) even where secured, the significant reliance on developments coming forward within the timescales when funding is required</p>	<p>Further to Issue Specific Hearing 1 and 2, National Highways support the need for an issue specific hearing in respect of the project funding.</p> <p>National Highways is seeking to agree protective provisions with the Applicant to mitigate its concerns.</p> <p>National Highways is not satisfied that this issue is resolved, however, the signing of the side agreement between National Highways and the Applicant will remove this as an area of disagreement upon signing.</p>	<b>Medium</b>

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		<p>National Highways has not seen the Homes England grant funding offer and therefore cannot rely on it to provide any assurance regarding secured funding.</p> <p>National Highways also has concerns about how any cost overrun or supply chain increases will be funded and whether the contingency built in and estimate of the programme costs are realistic.</p>		