

AtkinsRéalis



**Joint Councils
Deadline 10
Submission**

Gloucestershire County Council, Cheltenham
Borough Council, Tewkesbury Borough Council

28 November 2024

M5 JUNCTION 10 IMPROVEMENTS SCHEME DCO

**Joint Councils Written Submission of case put orally
at the Hearings on 20 November 2024**

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1. Introduction

1.1.1 This document summarises the submissions made by Gloucestershire County Council (GCC), including GCC in its role as the Local Highway Authority, Cheltenham Borough Council (CBC) and Tewkesbury Borough Council (TBC) as Local Planning Authorities (LPAs) (together ‘the Joint Councils’) at the Hearings held on 20 November 2024 in relation to the GCC Major Projects Team (‘the Applicant’) M5 Junction 10 Improvements Scheme Development Consent Order (DCO) (‘the Scheme’). The Joint Councils are the three host authorities for the Scheme.

1.1.2 The Joint Councils were represented at the Hearings by the following persons:

- Andrew Padden (AP), Principal Project Manager at AtkinsRéalis for the Joint Councils’ involvement in the DCO Examination for the Scheme, Highways Lead;
- Henrik Malker (HM), Associate and Noise and Vibration Specialist at AtkinsRéalis;
- Roshni Surdevan (RS1), Associate Environmental Scientist and Water Quality Specialist at AtkinsRéalis; and
- Rob Sewell (RS2), Associate Consultant and Flooding Specialist at AtkinsRéalis.

2. Open Floor Hearing 2 (OFH2)

2.1.1 The Joint Councils offered no comments during OFH2. The Joint Councils note that no Affected Persons and Interested Parties made representations during OFH2 on the Proposed Development and the provisions following the acceptance of Change Request No. 1. The Joint Councils thus have no further comments to make.

3. Compulsory Acquisition Hearing 2 (CAH2)

3.1.1 The following only sets out the agenda item(s) which the Joint Councils made substantial oral representations to during CAH2. For all other agenda items of CAH2 that are not listed within this submission, the Joint Councils offered no comments and have no further comments to make following a review of the evidence presented during CAH2.

3.2 Agenda item 3 – The Examining Authority (ExA) will seek an update from the Applicant in respect of outstanding objections to compulsory acquisition (CA) or temporary possession (TP)

3.2.1 During the discussion of this agenda item, Mr Hadley made representations about his outstanding objections to the proposed access arrangements to his site and the low level of offer proposed by the



Applicant to acquire part of his site. Mr Hadley argued that he disagreed with the Applicant that there will be betterment on his site because the access arrangements proposed by the Scheme will restrict access to his site.

3.2.2 Regarding this betterment argument which results in the low level of offer proposed to Mr Hadley, the ExA invited the Applicant to give a response to Mr Hadley's argument that the proposed access is undermining his ability to develop his site which is an allocated land within the development plan. The Applicant explained their position that the development on Mr Hadley's site can be delivered utilising Hayden Lane to the south, so the Scheme does not prevent the development. The ExA then queried the Applicant whether they accept Mr Hadley's claim that a second junction onto the B4634 Old Gloucester Road would unlikely be facilitated with the existing proposed access arrangements in place. The Applicant stated this would be for GCC Highways Development Management (HDM) team as a statutory consultee of the planning application at Mr Hadley's site to confirm.

3.2.3 The ExA then invited the Joint Councils to comment on Mr Hadley's outstanding objections. AP stated that the Joint Councils are aware that an Officer from GCC HDM had spoken to Mr Hadley the day before CAH2. The Joint Councils will review the issues and provide a response in writing if it is deemed necessary.

4. Issue Specific Hearing 5 (ISH5)

4.1.1 The following only sets out the agenda item(s) which the Joint Councils made substantial oral representations to during ISH5. For all other agenda items of ISH5 that are not listed within this submission, the Joint Councils offered no comments and have no further comments to make following a review of the evidence presented during ISH5.

4.2 Agenda item 7 – Flood Risk and Water Quality

The ExA will seek views of all parties in respect of their position on flood risk, and water quality in light of comments made in response to Change Request No.2.

4.2.1 Regarding item 2 in Table 4-2 of the Applicant's Change Application Consultation Statement [REP8-003], the ExA invited the Joint Councils in the capacity of the Lead Local Flood Authority (LLFA) to comment on the implications of Change Request No.2 on flood risk and Leigh Brook. RS2 stated that the Joint Councils have reviewed the updated Flood Risk Assessment (FRA) Addendum [AS-095] and the additional information on the updated modelling that has been undertaken with regard to Change Request No.2. The FRA Addendum [AS-095] sets out the results of the updated modelling of the design including Change Request No.2 and confirms that there are only minor changes in flood depth in general with no significant change in flood extents or impact on receptors. The Joint Councils have no concerns on the updated modelling which indicates that there is no material change to flood risk.

4.2.2 The ExA also queried the Joint Councils on a comment they have raised to Change Request No.2, which is recorded in item 16 in Table 4-2 of the Change Application Consultation Statement [REP8-003]. The ExA asked the Joint Councils whether they are suggesting that filter drains would provide a lower percentage of sediment removal than the previous swale design. RS1 confirmed that there is a reduction in treatment efficiencies as a result of the design change and this is stated within the Environmental Statement Addendum [AS-093]. However, the reduction is not enough to change the magnitude of overall treatment efficiencies within the Scheme and therefore there is adequate mitigation within the treatment drains in the highway drainage system for the Scheme.



- 4.2.3 In light of a contrasting opinion of the Environment Agency (EA) on the difference in treatment efficiencies between filter drains and swales, the ExA requested the Applicant to explain what the Highways England Water Risk Assessment Tool (HEWRAT) is and what the ExA should take with respect to the conclusion that the HEWRAT shows a pass for all parameters. The Applicant explained the HEWRAT assesses the suitability of the design in terms of the surface water drainage solution provided and whether there is sufficient mitigation to pass the water quality assessments. The Applicant's position is that the replacement of swales with filter drains within Change 1 of Change Request No.2 is entirely appropriate and passes all the relevant parameters. The ExA then invited the Joint Councils to comment on the Applicant's position on filter drains and the HEWRAT. RS1 stated that the Joint Councils agree with the Applicant's summary of the HEWRAT. The HEWRAT does take into account the differences between the treatment efficiencies of filter drains and swales. RS1 also highlighted that the HEWRAT takes into account suspended solid, dissolved copper and dissolved zinc, which all have different treatment efficiencies. This might explain the different opinion of EA comparing with that of the Applicant and the Joint Councils in terms of treatment efficiencies.
- 4.2.4 The ExA queried the Joint Councils if they wish to provide any further comments on their position on item 18 in Table 4-2 of the Change Application Consultation Statement [REP8-003]. Item 18 relates to a comment raised by the Joint Councils to Change Request No.2 regarding changes to item WE2 set out in the Summary of Changes to Register of Environmental Actions and Commitments (REAC) [AS-096]. RS1 confirmed the Joint Councils have no further comments to raise.

4.3 Agenda item 8 – Consultation Report, Table 4.2 in the Consultation Report, Change Application No.2

The ExA will seek views of the EA, National Highways (NH) and Joint Councils with regards to the Applicant's position and if there are any outstanding concerns.

- 4.3.1 The ExA asked the Joint Councils if they have any outstanding concerns on the Applicant's response to matters raised by consultees during the consultation on Change Request No.2 set out in Table 4-2 of the Change Application Consultation Statement [REP8-003]. AP confirmed the Joint Councils have no outstanding concern.

4.4 Agenda item 9 – ExA's third written questions (ExQ3)

The ExA will seek views of parties in respect of responses to ExQ3:

(i) Traffic and transport including access arrangements and NH position on the safe operation of the SRN

- 4.4.1 Regarding question 15.0.1 of ExQ3 [PD-021], the ExA requested the Joint Councils in the capacity of the Local Highway Authority to provide an opinion on the appropriateness of forecasted agricultural vehicle flows presented in the Deadline 7 submission of Court Consulting [REP7-020]. The ExA also queried the Joint Councils whether the sizes of those vehicles have been reflective of existing and historic activity on Mrs Bruton's land which forms part of the safeguarded land at the North West Cheltenham allocation. AP explained that GCC HDM team has provided a response to question 15.0.1, which is set out in the Joint Councils' Response to ExQ3 [REP9-014] and reads the following:



“It is considered that the number of agricultural vehicle movements stated by the Applicant (Note: typo, HDM team is referring to the Interested Party) at 192 per hour is wholly 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 50t/hectare therefore with 16t vehicle capacity, it will require 3 trailers per hectare. It is considered that total movements will be restricted by the size of the individual fields permitting the proposed layout to operate with minimal opposing flows through the year.”

4.4.2 AP then explained in essence, GCC HDM team are concerned that some of those forecasted vehicle flows are actually higher than what would be expected in relation to the historical agricultural use of Mrs Bruton’s land. The ExA queried the Applicant if they are in the position that the design of the proposed agricultural access into Mrs Bruton’s land and its retained use remains fit for purpose and appropriate. The Applicant stated that they believe the existing design is suitable for the realistic number of vehicle movements and agree with the Joint Councils that the 192 movements per hour figure proposed by Court Consulting is unrealistic based upon the agricultural use and average yields. The ExA then queried the Joint Councils in the capacity of the Local Highway Authority whether they agree with the Applicant on the appropriateness of the access provision into Mrs Bruton’s land. AP stated that the Joint Councils agree with the Applicant that the design of the access is fit for purpose.

4.4.3 Regarding question 15.0.4 of ExQ3 [PD-021], the ExA queried the Joint Councils whether they are in the position that the Scheme fulfils reasonable opportunities to enable other transport modes and respects the requirements of local policies, having consideration to the Applicant’s Active Travel Policy Position [Appendix A of REP7-010] submitted at Deadline 7. AP explained that the Joint Councils have provided a response to question 15.0.4, which is set out in the Joint Councils’ Response to ExQ3 [REP9-014] and reads the following:

“The Applicants Deadline 7 submission [REP7-010] has not changed the Joint Councils’ position as set out in para 2.8.26 of our own Deadline 7 submission [REP7-018]:

The Joint Councils accept that the DCO scheme provides compliance with Local Plan Policy and NPSNN paragraph 5.211. The 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 A4019 corridor beyond Gallagher Business Park, to the north along an on-road quiet lane (Stoke Road) route starting at the Gloucester Old Spot public house, and along the B4634 corridor as far as the land owned by Mr Hadley but does not show a connection to the recently completed Active Travel network on the B4063. It is the view of the Joint Councils that individual planning applications as they come forward will fulfil the remaining provision in consultation with the Local Highway Authority and with Active Travel England.”

(ii) Noise and mitigation for Stoke Road through Stoke Orchard

4.4.4 Regarding question 12.0.1 of ExQ3 [PD-021], the ExA invited the Joint Councils to comment on the adequacy of the noise mitigation to appropriately mitigate the operational stage significant effects at Stoke Road. HM stated that the Joint Councils agree with the Applicant that the Stoke Road Traffic Calming Scheme is likely to remove the significant effects identified within the Environmental Statement (ES), assuming that it is not re-baselined. This means that the Speed Calming Scheme is considered as part of the mitigation for the DCO Scheme and not a separate scheme that had been assessed before the baseline for the assessment of the DCO scheme was established.



(iii) Landscape and Visualisation

4.4.5 The Joint Councils offered no comments on this agenda item. Following from ISH5, the Joint Councils note the Applicant has submitted at Deadline 9A the revised landscape visualisations at viewpoint 2 [REP9A-004] in accordance with the changes described in the Applicant's response to question 11.0.1 of ExQ3 [REP9-011] and the Applicant's oral submission for this agenda item. The Joint Councils are in the process of reviewing [REP9A-004] and will pass any comments to the Applicant directly if necessary.

(iv) Heritage and the position with respect to Non-Designated Heritage Assets

4.4.6 The ExA requested the Joint Councils to confirm that there were no other Non-Designated Heritage Assets that had not been identified. AP stated that the Joint Councils could not confirm this position. The Conservation Officer at TBC has been unable to undertake a full site survey of the proposed development area. However, after undertaking a desktop exercise review utilising the Scheme's General Arrangement drawings, five further properties have been identified and these additional Assets have been passed over to the Applicant. AP added the Joint Councils understand that the Applicant have also provided a response to question 9.0.1 of ExQ3 [REP9-011].

4.4.7 The ExA then queried the Applicant how they are progressing in light of the new information provided by the Joint Councils. The Applicant explained they request further information from the Joint Councils on the reason for the categorisation or consideration of the five properties as Non-Designated Heritage Assets. The Applicant could update ES Chapter 11 (Cultural Heritage) accordingly with this further information. The ExA questioned what reassurance the ExA can have from the Joint Councils that they are going to provide that information in a timely manner. AP stated that the Joint Councils will provide a response in writing following from ISH5. AP also explained that the information of the five properties is not in the public domain because of limited availability of resources at TBC. The ExA requested the Joint Councils to have conversations with the relevant personnel at TBC as promptly as possible to confirm the list of specific properties to be provided to the Applicant and reasons why they are considered to be Non-Designated Heritage Assets. This action is captured in point 8 of the list of Action Points arising from ISH5 [EV11-002].

4.4.8 Following from ISH5, the Joint Councils have provided a response to ISH5 Action Point item 8. This is presented in the Joint Councils' submission at Deadline 9A [REP9A-008] and paragraph 4.5.1 of this written submission.

4.5 The Joint Councils' responses following ISH5

The Joint Councils' responses to the Action Points arising from ISH5

Action Point 8 – The Joint Councils to confirm list of specific properties to be provided to the Applicant and reasons why they are considered to be non-designated heritage assets?

4.5.1 As a follow-up action of the discussion under agenda item 9(iv) (see paragraph 4.4.7), the Joint Councils have provided a response to Action Point 8 in their Deadline 9A submission referenced REP9A-008. The Joint Councils have confirmed that the relevant criteria as to why the additionally identified properties should be considered as Non-Designated Heritage Assets has been provided to the Applicant. This information will allow the Applicant to update the ES Chapter 11 (Cultural Heritage) in time for Deadline 10.



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