

M5 Junction 10 Improvements Scheme

**Statement of Common Ground
Environment Agency
TR010063 – APP 8.4**

Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

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8.3 Statement of Common Ground Environment Agency

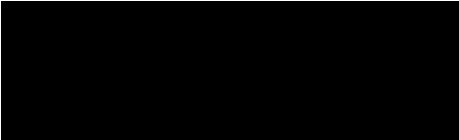
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Gloucestershire County Council and (2) the Environment Agency.

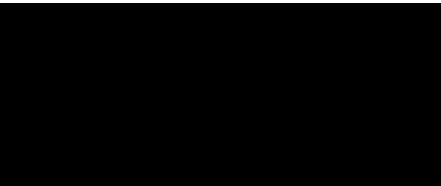
Signed: CHRIS BEATTIE



On behalf of Gloucestershire County Council

Date: 27 November 2024

Signed N.Nargas



On behalf of the Environment Agency

Date: 27 November 2024

Contents

Chapter	Page
1. Introduction	7
1.2. Purpose of this Document	7
1.3. Structure of Statements of Common Ground	7
2. Consultation	9
2.1. The Role of GCC	9
2.2. The Role of the Environment Agency (EA)	9
2.3. Summary of Consultation	9
3. Topics covered in this SoCG	12
4. Matters Agreed	13
5. Matters Outstanding	36
5.1. Principal matters outstanding	36
5.2. Matters outstanding	37

Tables

Table 1-1 - Glossary	5
Table 2-1 - Consultation with EA	9
Table 3-1 - Summary of topics considered within this SoCG.	12
Table 4-1 - Matters agreed between the Applicant and EA	13
Table 5-1 - Matters Outstanding	37

Glossary

Table 1-1 - Glossary

Term	Meaning / Definition
(The) Act	The Planning Act 2008 (as amended)
(The) Applicant	Gloucestershire County Council (Strategic Development Team) applying for the DCO.
Biodiversity Net Gain (BNG)	Biodiversity Net Gain delivers measurable improvements for Biodiversity by creating or enhancing habitats in association with development.
Carter Jonas (CJ)	Land referencing consultant working on behalf of the Applicant
Cheltenham Borough Council (CBC)	CBC is the local planning authority for Cheltenham Borough, and is a statutory consultee for the Scheme, as defined under section 42 (1)(b) of the Act.
Development Consent Order (DCO)	The consent for the construction, operation and maintenance of Nationally Significant Infrastructure Projects (NSIP) given by the relevant Secretary of State on the recommendation of the Planning Inspectorate under the Planning Act 2008 (as amended).
Environment Agency (EA)	A non-departmental public body with responsibilities relating to the protection and enhancement of the environment in England.
Environmental Impact Assessment (EIA)	A process of evaluating the likely environmental impacts of a proposed development, including inter-related socioeconomic, cultural and human health impacts, both beneficial and adverse.
Environmental Statement (ES)	Reports the findings of the EIA, including at least the information reasonably required to assess the likely significant environmental effects of the development.
Examining Authority (ExA)	The person(s) appointed by the Secretary of State (SoS) to assess the DCO application and make recommendation to the SoS.
Flood Risk Assessment (FRA)	An assessment on the likelihood of flooding in a particular area so that development needs, and mitigation measures can be considered.
Gloucestershire County Council (GCC)	Gloucestershire County Council. It is therefore a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(c) of the Planning Act 2008 ("the Act"). GCC is the local highway authority in Gloucestershire and is the Minerals and Waste Planning Authority (MWPA) for Gloucestershire. GCC also has statutory duties in relation to drainage, flood risk, and heritage assets and archaeology
Historic England	Publicly funded body that champions and protects England's historic places, also known as the Historic Buildings and Monuments Commission for England.
Host Authority	The local authority, within which the Scheme would be situated, In this case, Cheltenham Borough Council, Gloucestershire County Council and Tewkesbury Borough Council.

Term	Meaning / Definition
Local Planning Authority (LPA)	The county council, metropolitan, or district council, which has statutory responsibilities within its administrative areas.
Nationally Significant Infrastructure Project (NSIP)	A project of a type and scale defined under the Planning Act 2008 and by Order of the Secretary of State (SoS) relating to energy, transport, water, wastewater and waste generally. These projects require a single development consent, which includes consents under different regimes, such as planning permission, listed building consent and scheduled monument consent.
Natural England (NE)	Executive non-departmental public body responsible for the natural environment.
Planning Inspectorate (PINS)	The Government Agency responsible for operating the planning process for NSIPs. The Planning Inspectorate is responsible for examining DCO applications and making recommendations to the relevant SoS, who will make the decision on whether to grant or to refuse development consent. The SoS for Transport takes the decision on applications for highway NSIPs.
Preferred Route Announcement	Designation of a proposed option as a 'preferred route' by the Department for Transport and provides a form of planning protection from development of land in the vicinity of the M5 Junction 10 improvement scheme
Statement of Community Consultation (SoCC)	Prepared in accordance with Section 47 of the Planning Act 2008, to inform, explain and communicate how the consultation will be undertaken.
Statutory Consultation	In accordance with the Planning Act 2008, applicants of major infrastructure projects have a statutory duty to carry out a consultation on their proposals before submitting an application to the Planning Inspector.
(the) Scheme	The proposed M5 Junction 10 improvements development which is the subject of a DCO application.
Tewkesbury Borough Council (TBC)	Tewkesbury Borough Council is the local planning authority for Tewkesbury Borough and a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(b) of the Act.
Water Framework directive	The Water Framework Directive (2000/60/EC) which established a framework for European Community action in the field of water policy.

1. Introduction

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared in respect of the application for the M5 Junction 10 Improvements Scheme (“the Scheme”) made by Gloucestershire County Council (GCC) (the Applicant) to the Secretary of State for a Development Consent Order (DCO) under section 37 of the Planning Act 2008.
- 1.1.2. If made, the DCO would grant consent for the construction of improvement works to M5 Junction 10, consisting of a new all-movements motorway junction, a new West Cheltenham Link Road (the Link Road from the A4019 to B4634 (Old Gloucester Road)), and the widening of the A4019 (Tewkesbury Road) east of the junction to the Gallagher Retail Park Junction. A small section of the A4019 will be realigned to the west of the junction.

1.2. Purpose of this Document

- 1.2.1. This document is a Statement of Common Ground (SoCG) between GCC (the Applicant) and the Environment Agency (EA) in relation to the M5 Junction 10 Improvements Scheme.
- 1.2.2. The document identifies the following between the parties:
- A record of key consultation / correspondence.
 - Matters which have been agreed; and
 - Matters currently outstanding (subject to negotiation or not agreed).
- 1.2.3. The matters which are referenced in this document are that which are considered to be of material difference.

1.3. Structure of Statements of Common Ground

- 1.3.1. The SoCG has been structured in a generally consistent form across all consultees and sets out the matters which are agreed, the matters subject to further discussion and those matters which are not agreed. Each SoCG has been tailored according to the approach agreed with the interested party concerned.
- 1.3.2. This SoCG has the following structure:
- Section 1: Introduces the SoCG and provides a description of its purpose;
 - Section 2: Outlines the engagement that has taken place with the interested party; and
 - Section 3: sets out the topics discussed - topics struck through have had no matters raised through out engagement with the EA as not relevant to their statutory functions.
 - Sections 4 and 5 sets out the issues that have arisen, reporting on the status of each issue, i.e., whether it is agreed (Table 4.1), still under discussion or not agreed, and any remaining actions (Table 5.1). All matters are now agreed.
- 1.3.3. Where relevant, documents that are referenced in the SoCG but do not form part of the application are available to the Examining Authority (ExA) upon request.

- 1.3.4. This SoCG is a correct and final position of both parties at the DCO Deadline 10 submission on 28 November 2024.

2. Consultation

2.1. The Role of GCC

2.1.1. In this SoCG, GCC is the Applicant for the M5 Junction 10 Improvements Scheme, and this is separate and independent from the other functions and statutory duties carried out by the Council. As Applicant, GCC is promoting and delivering the Scheme with support of the rest of the Council, other Local Planning Authorities, National Highways and Homes England. This is to be recorded in separate SoCGs with the other parties.

2.2. The Role of the Environment Agency (EA)

2.2.1. The EA is a non-departmental public body sponsored by DEFRA with responsibilities relating to the protection and enhancement of the environment in England. The EA decides if relevant environmental permits and other consents and licences should be issued and, if so, what conditions should be applied. The EA also monitors compliance with the permit / licence conditions and takes enforcement action if appropriate.

2.2.2. The EA is a prescribed consultee as defined under section 42(1)(a) of the Planning Act 2008 (the Act).

2.3. Summary of Consultation

2.3.1. GCC has been in consultation with the EA during the development of the Scheme's design, including the optioneering process. The parties have continued communicating throughout the progression of the Scheme.

2.3.2. The engagement outlines in Table 2-1 covers formal consultation with the EA and engagement which pertains to matters raised in this SoCG. Other exchanges, such as requests for information or clarification points are not detailed below but are available on request.

2.3.3. The consultation with the EA since the Preferred Route announcement on 16th June and 2021 and to date is set out in Table 2-1 below.

Table 2-1 - Consultation with EA

Date	Method	Matters Discussed
27.06.2021	Meeting (via Teams)	The preferred route option was discussed along with the potential impacts and appropriate mitigation in relation to the WFD assessment.
12.07.2021	Email	Atkins Engineer inquired advice from the EA on the level for level storage and shared a memo outlining the level for level storage through the system.
06.12.2021	Email	Consultation documents were sent to the EA for comment.
15.02.2022	Email	Representation from the EA was received.
05.04.2022	Email	EA provided comments on the baseline model.

Date	Method	Matters Discussed
12.05.2022	Email	Atkins sent a letter responding to comments raised by the EA at the statutory consultation.
13.01.2023	Meeting (via Teams)	Meeting with the EA to communicate progress since the statutory consultation and progress with the SoCG.
02.02.2023	Email	Atkins sent an updated copy of document (GCCM5J10-ATK-LDC-ZZ-RP-LP-000005) SoCG for comment. No response has been received from the EA.
16.05.2023	Email	As part of the Further Targeted Consultation, consultation materials were sent to EA comment. The consultation materials were sent again on 26.06.2023 by request for comment.
15.02.2024	Meeting (via Teams)	Meeting to provide an update on the progress of the Scheme, the DCO programme, and agree an engagement plan to develop the SoCG.
22.04.2024	Meeting (via Teams)	Meeting with the EA to discuss flood risk matters (SoCG matter references 1.1, 8.1 – 8.8 & 8.17).
15.04.2024	Meeting (via Teams)	Meeting with the EA water quality and ecology specialists to discuss matters relating to WFD and ecological mitigation.
17.05.2024	Email	Email sent to the EA with the draft SoCG for EA review.
29.05.2024	Email	The EA returned the SoCG updated with tracked changes confirming matters which are now agreed.
05.06.2024	Meeting (via Teams)	Meeting to discuss the remaining outstanding items on the SoCG.
19.06.2024	Email	Email sent to EA confirming the Deadline 1 submissions relevant to the EA, and suggestion for next meeting date.
24.06.2024	Email	EA emailed asking for updated modelling files prior to next meeting.
26.06.2024	Email	Updated modelling files shared with the EA.
06.08.2024	Email	Email sent to EA checking meeting availability, and information on Deadline 4 dates, SoCG submission plans and hearing questions for Issue Specific Hearing 3 that are relevant to the EA.
21.08.2024	Meeting (via Teams)	Meeting to discuss remaining outstanding matters in the SoCG.
23.08.2024	Email	Updated SoCG shared with the EA for review.
27.08.2024	Email	EA request meeting notes from meeting held on 21.08.2024.
30.08.2024	Email	EA sent the reviewed SoCG to the Applicant.
17.10.2024 – 22.10.2024	Email	Email exchange between EA and the Applicant regarding wording of Requirement 8 in the dDCO.

Date	Method	Matters Discussed
20.11.24 and 26.11.24	Emails	Email with response to EA comments on design proposals for the Change 2 application with regard to Leigh Brook and the FRA Addendum for the change application. Email dated 26 Nov with EA agreement to the responses provided.

3. Topics covered in this SoCG

3.1.1. The following table is a summary of the topics which are considered within this SoCG. Topics struck through have had no matters raised throughout engagement with the EA as not relevant to their statutory functions.

Table 3-1 - Summary of topics considered within this SoCG.

Overarching topic	Topic Number	Topic
Background	1.	Principle of Development
	2.	Statutory Consultation
Relevant ES Chapter	3.	Assessment of Alternatives
	4.	Environmental Impact Assessment Methodology
	5.	Air Quality
	6.	Noise and Vibration
	7.	Biodiversity
	8.	Road Drainage and the Water Environment
	9.	Landscape and Visual
	10.	Geology and Soils
	11.	Cultural Heritage
	12.	Materials and Waste
	13.	Population and Human Health
	14.	Climate
	15.	Assessment of Cumulative Effects
Other Topics	16.	Engineering Design
	17.	Draft Development Consent Order
	18.	Land
	19.	Environmental Management Plan
	20.	Construction Traffic Management Plan

4. Matters Agreed

- 4.1.1. Table 4-1 shows those matters which have been agreed, including the matter reference number, and the date and method by which it was agreed. Topics struck through have had no matters raised throughout engagement with the EA as not relevant to their statutory functions.

Table 4-1 - Matters agreed between the Applicant and EA

Matter Reference number	Position	Date and method of agreement
1. Principle of Development		
1.1	<p>Within the PEIR section 4.3.2 the scheme, has been defined as “essential infrastructure”. Whilst we consider that this is appropriate to the improvement works to the motorway junction and A4019 link, it could be considered that the West Cheltenham Link Road (the Link Road) is proposed to support future development only, which would fall outside of this definition. We would welcome the relevant Planning Authorities views on this matter in respect to future planning requirements.</p> <p>The various elements of the Scheme make up a single project, either as part of the main alignment or as associated development. Any works identified as associated development, linked to a DCO, will be treated in the same way as the main DCO during the examination process.</p> <p>In the case of the M5 Junction 10 scheme, the three elements of the road improvements (Junction 10, A4019 and the link road) are all linked and dependent on each other and are considered together as part of the main DCO.</p> <p>As such the Applicant is treating the entire Scheme as essential infrastructure (making up a single DCO) which is required to enable the identified growth in the area.</p> <p>The EA requested that the Examining Authority confirm the Scheme as essential infrastructure, in particular, the classification of the Link Road element of the Scheme which is not part of the SRN (22.04.2024).</p> <p>The Applicant and the EA agree that it is for the Examining Authority to ultimately confirm if the Scheme is essential infrastructure.</p>	15/10/2024 – position confirmed at ISH4.
2. Statutory Consultation		
3. Assessment of Alternatives		
4. Environmental Impact Assessment Methodology		

Matter Reference number	Position	Date and method of agreement
4.1	<p>Water Framework Directive (WFD)</p> <p>At PEIR stage, the EA had concerns regarding the cited guidance (PIER section 8.5.9 and elsewhere) presented in the DMRB LA 113. Whilst Q95flow is an indicator of the likely importance of a watercourse and being Main River can be a surrogate for size and importance it is not necessarily the case that being an ordinary watercourse means it is of less importance. In this instance there is a correlation but in many parts of the area and County, and the country as a whole, ordinary watercourses can be of as high or high importance hydromorphologically and ecologically as main river. Main River being a function of flood risk and serving only to clarify where the EA has permissive powers to maintain watercourses for flood risk management purposes. Similarly, the WFD designation of a stretch of watercourse does not mean that that is the only reach or part of the catchment that is relevant for consideration in a WFD assessment but is a proxy, largely for monitoring and reporting purposes for the other controlled waters in the waterbody or catchment.</p> <p>The Applicant acknowledges the potential limitations of the guidance in this context, however LA 113 is part of the overall DMRB guidance and therefore has been applied appropriately. Further clarification and assessment will be undertaken as part the ES/WFD assessment and discussed further as part of the Statement of Common Ground.(12.05.2022). Additional explanation has been added to the ES to outline that, although there are limitations to the DMRB LA113 method, in this instance, the method is appropriate and accurately identified importance (13.01.2023).</p> <p>Following a meeting on 24.05.2024, the EA are satisfied with the approach used to determine watercourse importance and sensitivity provided professional judgement was also utilised, in addition to the DMRB LA113 guidance, following the 2019 and 2022 site visits described in Section 8.6.1 of the Road Drainage and Water Environment chapter within the ES. (Matter Agreed) 24/05/24.</p>	Agreed via EA review 24.05.2024
5. Air Quality		
6. Noise and Vibration		
7. Biodiversity		
7.1.	<p>The Biodiversity chapter of the PEIR provided a thorough and detailed initial account of the main environmental issues. However, whilst some effects have been avoided, reduced or mitigated the range of mitigation measures considered to offset the identified environmental effects on the aquatic environment have been underestimated.</p> <p>Ref WE4 in the Register of Environmental Actions and Commitments (REAC) [APP-137] details mitigation measures with regards to the river Chelt Bridge, along with other measures such as in-channel enhancements</p>	Matter agreed via EA review 07.06.2024.

Matter Reference number	Position	Date and method of agreement
	<p>(e.g. woody debris and morphological features). The following Refs WE5, WE6 and WE7 also mention bank reprofiling, and that culvert lengths will be kept to a minimum. The Applicant therefore considers that the Environment Agency’s involvement in the process of detailed design is sufficiently controlled for this element of the Scheme. The EA are satisfied that the Applicant has included enough mitigation measures to offset the environmental effects on the aquatic environment. However as per the REAC, the EA should be consulted following confirmation of bank protection measures.</p>	
7.2.	<p>West Cheltenham Link Road River Chelt Bridge</p> <p>A single span structure is the preferred type of crossing to minimise impact on the water environment if designed appropriately. The EA welcome the clear span structure with no mid channel features with reduced interactions during the operational phase with the river bed and banks. However within the PEIR, there were conflicting descriptions of the geometry of the bridge in relation to the river. Whilst there will not be the direct permanent habitat loss and significant habitat severance associated with the culverting of the other watercourses there is potential for changes to riparian and associated flood plain quality and as well as water body hydromorphology leading to changes in river processes and habitats upstream and downstream.</p> <p>The Applicant has confirmed the structural dimensions of the proposed bridge (12.05.2022). The Applicant also acknowledged that based on indicative cross sections, the EA have requested greater variety in bank top to bank top width to create a more geomorphologically interesting channel. At this time the drawings shared are concept plans and further work will be incorporated at that point to support detailed design (13.01.2023).</p> <p>At a meeting held on 05.06.2024, the Applicant confirmed that ref WE4 in the REAC details the geometry of the River Chelt bridge, therefore the EA are satisfied that there are no conflicting descriptions with regards to the bridge geometry. Refs WE3 to WE9 mentions measures to avoid deterioration to hydromorphology and ref WE15 states that works in the floodplain will be minimised as far as possible. Therefore, the EA are also satisfied that changes to riparian and flood plain quality and hydromorphology have been adequately addressed.</p>	Matter agreed via EA review 07.06.2024.
7.3.	<p>Section 5.4.39 of the PEIR referred to advice from the EA indicating that a 4m easement on the south bank and a 2m easement on the north bank would be acceptable for their regulatory requirements. However, this would represent a significant compromise ecologically and geomorphological and may necessitate bank protection. Whilst a reduction of easement width to below 8m to help reduce the span, supported by a small layby to allow operatives to pull off the road to safely access may be necessary, the operating principal is the wider it can be the better for the environment.</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
	<p>The Applicant confirmed that the proposed bridge will have a clear span of 24.8m to allow for a clear crossing of River Chelt with a minimum abutment offset from top of bank of 4m. The offset of the structure will provide a wildlife corridor and general through access in the permanent condition. The total bridge deck width is 20.8m to accommodate the single carriageway road and separated active travel route. The minimum deck soffit clearance to high ground level is 2.8m at 31.04m AOD, with the highest solid feature (top of parapet upstand) proposed at 32.82m AOD (12.05.2022) .</p> <p>The design has since developed and there is a requirement to look into inclusion of bank protection under the single span structure due to potential for erosion and risk to the crossing. In the draft ES, the worst case scenario has been assessed which includes rip-rap bank protection. Further investigation is required at the detailed design stage to determine the need for bank protection and the requirements of that bank protection. Endeavours will be made to soften this bank protection to green infrastructure. (13.01.2023).</p> <p>Following the EAs review of the DCO application, the matter has been agreed (24.05.2024).</p>	
7.4.	<p>Within the Biodiversity chapter of the PEIR, Section 7.6.16, wildlife crossings made reference to otter ledges to be installed on both sides of the River Chelt bridge, along the Link Road. The EA queried whether these are to be attached to the structure above the height of the flood levels in addition to the natural bank. As maintaining a bankside strip will additionally act as a mammal easement below the Link Road in most river level conditions. As part of any additional design measures higher level mammal passage may be required below the roadway..</p> <p>The Applicant confirmed that the requirement for otter ledges under the River Chelt bridge has been reviewed since the production of the PEIR. As the land either side of the River Chelt underneath the bridge are not expected to flood (these areas are modelled to remain dry in the 100yr flood event (with allowance for climate change)), then otter ledges in this location are considered as no longer required and have been removed from the current design.(12.05.2022). An underpass has been included in the design to the south of the River Chelt, within 50m of the watercourse, designed specifically for otters but with the capacity to be used by other species. This is located above possible flood levels. (13.01.2023).</p> <p>Following the EA review of the DCO application, the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.
7.5.	<p>The EA strongly supported landscape plans provided within the PEIR and other embedded measures designed to encourage use of these features and prevent otters from accessing the carriageway. The EA advocated an acknowledgement that otters also travel overland particularly along ditches and hedgerows and the increase in complexity and hazards as a result of the scheme and associated developments leads to some residual risk.</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
	<p>The Applicant confirmed that numerous underpasses/features suitable for use by otters have been incorporated into the design along the Link Road, and otter proof fencing will prevent access to the carriageway. The underpass beneath the A4019 will provide a safe route for otters and other species to cross this road and the otter ledge that will be retrofitted to the existing M5 culvert over the River Chelt will provide safe passage to otters at times of flood. Combined, these measures will ensure that otters can safely move through the landscape. (13.01.2023).</p> <p>Following the EAs review of the DCO application, the matter has been agreed (24.05.2024).</p>	
7.6.	<p>Enhancements to aquatic habitats</p> <p>Section 7.7.58. of the Biodiversity chapter within the PEIR acknowledged there are potential opportunities for enhancements to aquatic features across the Scheme, which will contribute to any biodiversity net gain targets and may contribute to the SNAs. The EA would welcome more detail on this aspect.</p> <p>The Applicant confirmed that additional detail would be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES. This detail would also be shared with the EA as the design develops. (12.05.2022). There are plans in place to develop a wetland area which has now been included as part of the dDCO submission. Aquatic and terrestrial ecologists, hydro geologists and flood risk experts have collaborated to determine the conceptualisation of this wetland area (13.01.2023).</p> <p>Following the EAs review of the DCO application, the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.
7.7.	<p>Section 7.7.59. of the Biodiversity Chapter of the PEIR stated that opportunities to enhance and restore sections of the River Chelt may have been available within the redline boundary. The EAs assessment was that an element of river restoration was required to mitigate the impacts of the scheme and on top of that improvements to watercourses and riparian condition to align with WFD status objectives are essential.</p> <p>Additional detail would be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES. It is the applicants understanding that the area assigned for mitigation measures (100m upstream and downstream of crossings on the River Chelt) would be sufficient to align with WFD legislation. This area would include bank rehabilitation, riparian improvements, and enhancements to the in-channel morphology. These measures have been incorporated into the BNG assessment which has determined >10% BNG for the Rivers and Streams assessment. If the Biodiversity Net Gain (BNG) target of 10% cannot be met within this reach, opportunities will be investigated off site. However, it is not anticipated that a net gain would drop below 10%(13.01.2023).</p> <p>Following the EAs review of the DCO application, the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
7.8.	<p>Elsewhere within the PEIR there was reference to improving in-channel and riparian habitat diversity, bank re-profiling, riparian planting and removal of invasive species (namely Himalayan balsam). the EA noted that the redline boundary had been extended 100m upstream and downstream of the two River Chelt crossings to allow for enhancements along these sections of channel. The EA recommended an extension to this boundary particularly with respect to net gain.</p> <p>Following early consultation with the EA the redline boundary was extended beyond normal best practice. This provided sufficient space for meaningful mitigation measures to be applied, including bank rehabilitation, riparian improvements and enhancements to the in-channel morphology. Further extensions to the redline boundary would require further justification and clarifications from the regulator.</p> <p>Further extension of the redline boundary is not expected to be required to achieve our biodiversity net gain(12.05.2022). With the preliminary Scheme design and mitigation measures, the Scheme can achieve a net gain of >10% for Rivers and Streams. This is subject to change at detailed design (i.e., confirmation of the bank protection design on the River Chelt); however, it is not anticipated that a net gain would drop below 10%. (13.01.2023)</p> <p>The biodiversity chapter of the ES discusses preventing the spread of Himalayan balsam to ensure compliance with legislation. All recommendations are contained within the REAC. (13.01.2023)</p> <p>Following the EAs review of the DCO application, the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.
7.9.	<p>Severn Estuary SAC/SPA/Ramsar</p> <p>Although the Severn Estuary SPA, SAC and Ramsar site boundary is 23km south-west of the Scheme it is important to capture the distance downstream to confluence with the tidal Severn River Chelt, Leigh Brook, and River Swilgate) running from east to west, before draining into the River Severn (at least 7.5km downstream of the Scheme).</p> <p>This has been captured in the Biodiversity chapter paragraph 7.5.4 as well as in the HRA (PEIR Appendix 7.13) The HRA was submitted with the ES (application document: TR010063 - APP 6.15) to the biodiversity chapter.</p> <p>Following the EAs review of the DCO application, it has been agreed that Natural England will lead on this decision, and the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.
7.10.	<p>Fish</p> <p>The importance valuation of the River Chelt in section 7.5.145 of the PEIR did not refer to the native brown trout that reside in the river. The WFD assessment submitted with the PEIR makes reference to EA fish monitoring sites</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
	<p>which have been surveyed within the last 10 years where bullhead, three-spined stickleback, brown trout and European eel were found and acknowledges that the species present are considered to be important. The European eel being a Critically Endangered species on the International Union for Conservation of Nature (IUCN) Red List of Threatened Species (2010), species of Principal Importance under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, and a UK Biodiversity Action Plan (BAP; 2007) priority fish species. Brown trout is a species of principal importance under section 41 of the NERC Act 2006 and a UK BAP (2007) priority fish species. Bullhead is a European Commission Habitats Directive Annex II non-priority species 4 (in section 4.1.35). Additionally, in 2014 during a previous survey, in section 4.1.35. Atlantic salmon are mentioned as being recorded at Site ID 52484. Atlantic salmon is a European Commission Habitats Directive Annex II and V species, a species of Principal Importance under section 41 of the NERC Act 2006 and a UK BAP (2007) priority fish species. Salmon Par have also been caught during fish rescues downstream at Norton prior to a weir removal and subsequent to the removal are expected to be able to migrate upstream.</p> <p>Following the EAs review of the DCO application the matter has been agreed (24.05.2024).</p>	
7.11.	<p>Existing Chelt Culvert under the M5</p> <p>The EA strongly welcomed inclusion of our suggestion to retrofit an otter ledge within the existing River Chelt culvert beneath the M5, on the opposite side of the footbridge which we consider essential mitigation. The EA note that otters currently use the footbridge, but camera footage and observations have identified that it floods. Retrofitting an otter ledge will provide safe passage during times of flood.</p> <p>An otter ledge is being included in the design in this location and will be reported in the ES. (13.01.2023)</p> <p>Following the EAs review of the DCO application the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
7.12.	<p>Other watercourses</p> <p>Within the PEIR, there were several references to the drainage ditches to be relocated due to encroachment from road widening and embankment and the current plan to replace with like for like habitats. Even though some of these watercourses will not be in water all year it is best practice to replace with an improved physical habitat e.g. with variation in bank slope and improved sinuosity. The details of these replacements in the PEIR refer to them being sown with a wet grassland seed mix of appropriate provenance and to represent geographical context however this will be much more meaningful and significant if the physical habitat is enhanced.</p> <p>Where possible within the Scheme boundary, the physical form of the drainage ditches will be enhanced, including forming some sinuosity and variation in profile. However, these will be largely dry/ephemeral and vegetation will likely dominate, therefore appropriate seeding will be applied. (12.05.2022)</p> <p>Sinuosity has been applied to a small number of ditches within the drainage strategy where space allows. (13.01.2023).</p> <p>Following the EAs review of the DCO application the matter has been agreed (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.
7.13.	<p>The description of Morphological enhancements in the PEIR WFD chapter (Scheme wide) 6.3.7. refers Watercourse channels and ditches adjacent to roads have often been modified by previous road building or drainage schemes. Hence, in some instances, the realignment of a channel can present an opportunity to restore channels to a more natural state of ecological function in line with WFD objectives. 6.3.8. As there will be extensive lengths of ditches created as part of the Drainage and Environment Plans, there is potential for enhancement of these features to create a biologically diverse habitat. This will help the attainment of Good through the preservation and restoration of habitats and enhancements to ecology as part of the mitigation measures set out by the EA. This potential does not yet appear to have been realised in the current design iterations.</p> <p>Additional detail will be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES within the dDCO submission. The extent and nature of the plans will be discussed further as part of the Statement of Common Ground.(12.05.2022)</p> <p>Following the EAs review of the DCO application the matter has been agreed, evidence is provided in the plans of new replacement ditches which are presented in Appendix 2.2 (24.05.2024).</p>	Matter agreed via EA review 24.05.2024.

Matter Reference number	Position	Date and method of agreement
7.14.	<p>The Biodiversity chapter of the PEIR provides a thorough and detailed initial account of the main environmental issues. However whilst some effects have been avoided, reduced or mitigated the range of mitigation measures considered to offset the identified environmental effects on the aquatic environment have been underestimated.</p> <p>The design has since developed and there is a requirement to look into inclusion of bank protection under the single span structure due to potential for erosion and risk to the crossing. In the draft ES, the worst case scenario has been assessed which includes rip-rap bank protection. Further investigation is required at the detailed design stage to determine the need for bank protection and the requirements of that bank protection. Endeavours will be made to soften this bank protection to green infrastructure. (13.01.2023).</p> <p>The REAC (ref REP3-031) item WE4 has been updated to state that Environment Agency will be consulted on this aspect of the detailed design.</p> <p>Following the meeting with the EA on 21.08.2024 this matter has been agreed.</p>	Matter agreed via SoCG meeting held 21.08.2024.
7.15.	<p>Flood storage basin</p> <p>The EA noted within the PEIR FRA Section: 5.4.37, that the storage design was proven in the hydraulic model and it includes for nominal 1 in 3 side slopes around the wetland, It is important that this don't translate into final design and there is stronger commitment to optimise the biodiversity value of this feature with organic planform shape that includes bays, inlets and islands, so promoting a future wetland area with significant excavation below existing ground level proximity of floodplain compensation area to the road junction will impact on its attractiveness to some wildlife.</p> <p>This was be considered through the development of the design and reported in the ES. An area of farmland to the south east of the motorway junction (referred to as the flood storage area) will be transformed into an area supporting wetland habitats, scrub and species-rich grassland surrounded by woodland planting, whilst also fulfilling its role as a flood storage area. The area will incorporate a permanently wet area, plus ephemeral pools. A channel will link the outfall of the attenuation basin to the Piffs Elm culvert which will regularly refresh the permanent waterbody to avoid stagnation. Although the wetland is incorporated as a 'mitigation measure' under the DMRB methodology, tests have been undertaken that show water quality is sufficiently mitigated prior to entering the wetland due to swales, ditches and basins prior to out falling. Depressions have been designed to include variations in bed topography, with shallow bank slopes to create drawdown zones and marginal shelves.</p>	Matter agreed via SoCG meeting held 21.08.2024.

Matter Reference number	Position	Date and method of agreement
	<p>The approach will be to lightly seed the central area with wetland grass species, and plant small amounts of scattered scrub and suitable marginal plants, allowing a degree of natural regeneration. The area will be monitored before a management plan is produced to suit the developing conditions and habitats. (13.01.2023).</p> <p>Requirement 13 of dDCO Flood compensatory storage. Flood compensation will be required during the construction phase to offset the losses. This is described in the Register of Environmental Commitments [AS-027] under item WE17, which states:</p> <p><i>“To mitigate the impact of permanent earthworks within the wider floodplain, construction work will be phased so that floodplain storage and compensation areas are constructed prior to loss of floodplain volume to ensure no overall adverse impact”.</i> Compensatory floodplain to offset the volume of water displaced by the Scheme during the design flood, will be implemented prior to the removal of any existing floodplain. This includes a flood storage basin between the M5 motorway and Withybridge Lane (Work No. 7), and two areas of compensatory floodplain immediately east of the West Cheltenham Link Road (Work No. 5n) and north of the B3634 (Work No. 6d)”. (04.06.2024).</p> <p>Following the meeting with the EA on 21.08.2024 this matter has been agreed.</p>	
7.16.	<p>Timing with respect to fish.</p> <p>The summary document highlights that construction of the River Chelt bridge will avoid ecologically sensitive periods for fish species e.g. migratory/spawning periods, in particular for European eel. This also needs to take into account the salmonid spawning season "</p> <p>Following consultation with the Environment Agency, additional mitigation has been included within the updated Biodiversity chapter submitted at Deadline 1 (application document: TR010063 – APP 6.5), the WFD assessment (application document: TR010063 - APP 6.15) and the Register of Environmental Actions and Commitments (REAC) (APP-137): B28 as part of Deadline 1 to offset any potential risk to fish as a result of construction of the Barn Farm Culvert extension on the Leigh Brook.</p>	Matter agreed via SoCG meeting held 21.08.2024.

Matter Reference number	Position	Date and method of agreement
7.17.	<p>Change Application 2: As the new conveyance channel will connect to the Leigh Brook, there is the potential for migratory fish (such as eels) to enter the new channel, culvert and basin during highwater flows, and become trapped when water subsides. We suggest that fish are either somehow excluded or that they have a method to escape.</p> <p>Applicant response: Regarding the potential for migratory fish to enter the channel at the Leigh Brook, the potential solutions will be reviewed at detailed design and the Applicant will engage with the EA to agree resolution. It would be preferable to have a flow through the channel that would allow fish to escape, rather than install something to exclude the fish as this would require maintenance and may have health and safety implications. The Applicant also recognises that excluding fish isn't seen positively in the Water Framework Directive. The channel to the Leigh Brook will receive surface water run-off, the flows for which will be reviewed during detailed design as part of the solution development.</p> <p>The Environment Agency has confirmed response is sufficient and takes the issue of fish entrapment into consideration. The Environment Agency welcome the opportunity to engage during the channel detailed design stage, to agree on a resolution.</p>	Via email 26.11.2024
8. Road Drainage and the Water Environment		
8.1.	<p>Incidentally, there are some minor errors in the FRA submitted with the PEIR with respect to description of the current flood alleviation measures in the Chelt for example Dowdeswell reservoir, which is managed by the EA as one of three flood storage areas on the Chelt.</p> <p>The ownership and operation of the Dowdeswell Reservoir have now been updated in the FRA (See paragraph 1.5.5 in application document: TR010063 - APP 6.15).</p> <p>Following the meeting with the EA on 22.04.2024 this matter has been agreed (22.04.2024)</p>	Matter agreed via EA review 22.04.2024.
8.2.	<p>At the PEIR stage, the EA registered concern that, based on the stage of the project at present, they did not consider it includes sufficient river and floodplain restoration in order to mitigate the impacts of the proposed development. As the Environmental Impact Assessment (EIA) of the Scheme progresses and detailed design ensues we are hopeful this will be rectified and realised, however the assessment as it stands does not appear to facilitate the necessary river and floodplain restoration we would expect to see.</p> <p>The Applicant confirmed additional detail will be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES. Following early consultation with the EA the redline boundary was extended beyond</p>	Matter agreed via meeting with the EA on 05.05.2024.

Matter Reference number	Position	Date and method of agreement
	<p>normal best practice to include 100m upstream and downstream of crossings on the River Chelt. This provided sufficient space for meaningful enhancement measures to be applied, including bank rehabilitation, riparian improvements, and enhancements to the in-channel morphology. (12.05.2022).</p> <p>28.05.2024 the EA indicated the matter was outstanding in relation to Table 4-4 in Appendix 7.18 Biodiversity Net Gain details the proposed enhancements to watercourses impacted by the scheme. However, EA would want to see further enhancements with regards to floodplain restoration, e.g. creation of floodplain meadows as they are “a key part of the relevant National Character Area Profile”.</p> <p>Discussions at meeting held 05.06.2024 confirmed that this matter is now agreed on the basis that floodplain meadows require connection to the floodplain, as seasonal flooding is necessary to maintain this habitat type. There are no areas within the Order limits that are connected to the floodplain and would flood regularly enough to be suitable for creation of this type of habitat.</p>	
8.3.	<p>The WFD assessment (APP-108) assumes a clear span structure with a 25m deck width with abutments set back 5m from the river bank tops. The PEIR refers a 24 m wide span with the deck soffit set at least 600 mm above the predicted design flood level of 27.75 m AOD. The abutments will be set back from the river banks by 4m on the north and 8m on the south, permitting access under the bridge on both banks if required.</p> <p>The Applicant confirmed the proposed bridge will have a span of 24.8m to allow for a clear crossing of River Chelt with a minimum abutment offset from top of bank of 4m. The offset will ensure minimum disturbance during construction and provide a wildlife corridor and general through access in the permanent condition. The total bridge deck width is 20.8m to accommodate the single carriageway road and separated active travel route. The minimum deck soffit clearance to high ground level is 2.8m at 31.04m Above Ordnance Datum (AOD), with the highest solid feature (top of parapet upstand) proposed at 32.82m AOD. (12.05.2022)</p> <p>Following the EAs review of the DCO application the matter has been agreed (28.05.2024)</p>	Matter agreed via EA review 28.05.2024.
8.4.	<p>The EA stated that additional mitigation will need to be included in the next stage of design (Following the PEIR) to mitigate impacts on the water environment and reach compliance with WFD and other relevant planning policy.</p> <p>The Applicant confirmed that additional detail will be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES. It is the Applicants understanding that the mitigation proposed as part of the Scheme is sufficient to be compliant with the WFD and other planning policy. (13.01.2023)</p> <p>Following the EAs review of the DCO application the matter has been agreed (28.05.2024)</p>	Matter agreed via EA review 28.05.2024.
8.5.	<p>Table 4-2 - Mitigation measures for the River Chelt - source to M5 water body within the WFD of the PEIR makes reference to potential WFD mitigation measures which are all possible and necessary within and without the</p>	Matter agreed via EA review 28.05.2024.

Matter Reference number	Position	Date and method of agreement
	<p>redline boundary. These include working with physical form and function (e.g. remove obsolete structures, re-engineer river, remove or soften hard banks, improve in-channel morph diversity, bank rehabilitation, re-opening culverts alter culvert channel bed and set-back embankments to restore floodplain connectivity and fish passes).</p> <p>The Applicant confirmed that additional detail would be added to the mitigation strategy as part of the landscape plans, WFD assessment and ES. It is our understanding that the mitigation proposed as part of the PEIR will be sufficient to be compliant with the WFD and other planning policy. The approach to implementation of mitigation measures will be proportionate to the impacts of the Scheme. (12.05.2022).</p> <p>Following the EAs review of the DCO application the matter has been agreed (28.05.2024)</p>	
8.6.	<p>The PEIR FRA chapter 5.1.7 makes reference to many of the River Chelt banks in this area being slightly raised above the local floodplain. In the context of flood risk during construction of the Scheme, that may impact on the works or third party receptors. Lowering of slightly raised levels in the river restoration zone should be factored into the model as a potential means of improving connectivity with the flood plain and bank enhancements.</p> <p>The Applicant confirmed that enhancement measures along the River Chelt will include reprofiling of banks. However, the flood risk implications have been considered and bank levels will not be lowered where there is any potential for increased flood risk.(12.05.2022).</p> <p>Following the EAs review of the DCO application the matter has been agreed on the basis that the banks cannot be lowered as there is flood risk to consider (28.05.2024).</p>	Matter agreed via EA review 28.05.2024.
8.7.	<p>The EA highlighted that the emergency procedure for pollutions, and spills need to be considered in the EMP.</p> <p>The Applicant can confirm that the procedures for containing spillage has been outlined in the EMP 1st iteration and will be developed further by the principle contractor in the 2nd iteration.</p> <p>The Register of Environmental Actions and Commitments (REAC) will also draw down all mitigations and securing mechanisms within the DCO. (13.01.2023).</p> <p>Following the EAs review of the DCO application the matter has been agreed (28.05.2024)</p>	Matter agreed via EA review 28.05.2024.
8.8.	<p>The EA have requested information on the legislation which the project is looking to disapply.</p> <p>The Applicant confirmed that they have not included any disapplication in relation to the Environmental Permitting Regulations or Water Resources Act for which the EA are the consenting body.</p> <p>The EA confirmed the matter is agreed as the Scheme is not disapplying any permits (28.05.2024)</p>	Matter agreed via EA review 28.05.2024.

Matter Reference number	Position	Date and method of agreement
8.9.	<p>As set out in Chapter 5 of the PEIR FRA - managing flood risk, should be based on the hierarchy set out within table 5.1, with the emphasis being on Avoidance/Prevention through appropriate design and location rather than relying on significant mitigation or other interventional measures to provide a truly sustainable scheme. The EA highlighted that the failure to follow this way of delivering new development is highlighted within paragraph 5.19 of the report.</p> <p>The approach taken has been to avoid areas of predicted flooding where technically possible. Through the embedded mitigation, built by default into the Scheme, detrimental impacts to flood risk are avoided. As the inclusion of flood culverts and flood storage/attenuation was part of the initial design, these control measures in effect prevent adverse effects on flood risk.</p> <p>Refers to Para 5.19 as being a factual admission of worst case impacts. The Scheme modelling report (issued in March 2022) includes a test on the impacts of the Scheme without some of the embedded mitigation to further evidence the need for mitigation. (12.05.2022) 22.04.2024</p> <p>Discussions at meeting confirmed that the embedded mitigations for flood risk is based on the flood risk hierarchy and is described in the Flood Risk Assessment (FRA) in its Chapter 5.</p>	Matter agreed via SoCG meeting held 21.08.2024.
8.10.	<p>The EA highlighted that, the principles set out in section 5.4.3 of the PEIR FRA are also crucial in minimising impacts during the construction phase and need to be considered fully prior to final development boundaries being set.</p> <p>The Buildability Report provides some further information on how this Scheme might be constructed. Requirements to the Contractor will be set out in the REAC and the Environmental Management Plan (EMP) 1st iteration, that will be produced as part of the Environmental Statement (ES) and secured through the DCO. (12.05.2022).</p> <p>Discussions at meeting held on 22.04.2024 clarified that the dDCO Requirement 3 is the securing mechanism which requires the contractor to adhere to the EMP 1st iteration. An EMP 2nd iteration will be prepared by the contractor.</p> <p>On 05.06.2024 the Applicant identified that REAC commitment WE15 has identified the mechanisms in which flood risk during construction will be mitigated.</p> <p>Following the meeting with the EA on 21.08.2024 this matter has been agreed.</p>	Matter agreed via SoCG meeting held 21.08.2024.

Matter Reference number	Position	Date and method of agreement
8.11.	<p>The EA highlighted the need to fully understand the groundwater regime in the area of the wetland compensation scheme, to avoid this area being full prior to out of bank fluvial flows reaching the feature meaning the proposals would not meet the design concepts outlined in the PIER or FRA, this is deemed a potentially significant issue to providing appropriate mitigation.</p> <p>Ground investigations (GI) in the area of the flood storage have been undertaken. The factual and interpretative information demonstrate that the ground is highly impermeable and will not be subject to significant groundwater ingress. However, the GI did find isolated and localised lenses of gravels near the southern boundary of the proposed storage area. There may be some intrusion, or infiltration, through these lenses through the excavated edge of the flood storage area. This has been calculated to be of negligible flow which would pass straight through the storage area and out through the Piffs Elm culvert. We do not perceive any loss of the available storage volume through accumulation of groundwater. (13.01.2023) As such, the flood storage will remain available for overland flow and fluvial storage.</p> <p>22.04.2024</p> <p>The groundwater impact on the flood storage solution is described in the Flood Risk Assessment (FRA): see its Chapter 5 paragraphs 5.4.41 to 5.4.43.</p> <p>On 05.06.2024 a groundwater technical note has been issued as part of Deadline 1 for EA review, see Appendix B.</p> <p>At meeting held on 21.08.2024, the EA confirmed they have reviewed the note and confirm the matter is now agreed.</p>	Matter agreed via SoCG meeting held 21.08.2024.
8.12.	<p>The EA agree with 6.2.6. of the WFD submitted with the PEIR where it states it will be designed and constructed in such a way as to minimise disruption to the river and riparian zone with abutments being set well back from the bank edge to allow the river to function naturally and to maintain a wildlife corridor along the banks. Where practically possible the bridge deck should run perpendicular to the watercourse (to reduce shading). Bed and bank protection should only be used where a real risk to life or critical infrastructure is apparent.</p> <p>The design has since developed from PEIR and there is a requirement to look into inclusion of bank protection under the single span structure. In the draft ES, the worst-case scenario has been assessed which includes rip-rap bank protection. Further investigation is required at the detailed design stage to determine the need for bank protection and the requirements of that bank protection. Endeavours will be made to soften this bank protection following further assessment. (13.01.2023).</p> <p>This matter is a detailed design consideration, and REAC commitment WE4 outlines that the EA will be consulted</p>	Matter agreed via SoCG meeting held 21.08.2024.

Matter Reference number	Position	Date and method of agreement
	<p>on the designs for the bank protection.</p> <p>Following the meeting with the EA on 21.08.2024 this matter has been agreed.</p>	
8.13.	<p>The EA maintained the view that it is not yet possible to scope out/prevent the future attainment of Good status. (Test B). The WFD submitted with the PEIR requires that surface water discharges are managed so that their impact on the receiving environment is mitigated. The objective is to protect the aquatic environment and control pollution from diffuse sources such as urban drainage – a key aspect that effectively precludes use of the traditional approach to drainage.</p> <p>The Highways Agency Water Risk Assessment Tool (HAWRAT) (DMRB LA 113) has been used to determine whether the risk to the receiving surface water receptors water quality is acceptable and whether any surface water receptors require mitigation through three assessments:</p> <ul style="list-style-type: none"> • Assessment of acute impacts from soluble pollutants. • Assessment of chronic impacts due to sediment related pollutants. • Compliance with Environmental Quality Standards (EQS) for dissolved copper and dissolved zinc. <p>A pass for these three assessments demonstrates that the Scheme adequately mitigates against potential impacts on water quality and will therefore pass Test B.</p> <p>The Applicant acknowledges the EA’s concerns regarding emergency cut-offs in the event of an incident on the highway. The Applicant can confirm that shutoff penstocks have been incorporated for each basin with the specific details of these being developed at detailed design stage. (13.01.2023)</p> <p>05.06.2024</p> <p>The wording has been updated in section 8.7.48 to state that the drainage catchments would provide containment for a potential spillage. This update is submitted as part of Deadline 1.</p> <p>At the meeting held on 21.08.2024, the EA indicated that this matter was agreed subject to a further update being made to section 8.9.13 to match the change made to paragraph 8.7.48 that was submitted at D1. It was agreed that this would be updated, and the updated Chapter 8 will be submitted before the close of examination.</p>	Matter agreed via SoCG meeting held 21.08.2024.
8.14.	<p>As highlighted both embedded mitigations, as highlighted in PEIR paragraph 8.6.29, and any essential (additional) mitigation will need to be based on a sound evidence base. This would take the form of a detailed hydraulic model to support the design works.</p> <p>24/05/2024 – The EA requested the updated modelling to be reviewed by the Environment Agency post 2022.</p>	15/10/2024 – position confirmed at ISH4.

Matter Reference number	Position	Date and method of agreement
	<p>Whilst the Applicant are happy with the baseline and with scheme model, a second model has been developed, the results of which are described in the Flood Risk Impacts Technical Note TR010063. This describes modelling which was undertaken to understand flood risk from the ordinary watercourse at the southern end of the West Cheltenham link road. The Environment Agency had not seen or commented on this modelling. The Environment Agency have only reviewed the baseline and with scheme models for the River Chelt and Leigh Brook. Whilst the detail presented in the Flood Risk Impacts Technical Note (TR010063) is reasonable there is not enough information available to verify if the findings and the results presented in the Flood Risk Impacts Technical Note are accurate. In June 2024, the EA stated that as the scheme is essential infrastructure, it would wish to review the Ordinary Watercourse model.</p> <p>The Applicant and the EA agree that a sound evidence base has been provided through the flood modelling which has been reviewed and accepted by the Environment Agency. This is documented in the Baseline and Scheme modelling reports which are appended to the Flood Risk Assessment (FRA).</p> <p>The Applicant and the EA agree that it is for the Examining Authority to ultimately confirm if the Scheme is essential infrastructure.</p>	
8.15.	<p>If the sequential test is deemed to have been passed then, as the link road will cross all flood zone designations, it is felt that both parts of the exception test would also need to be passed as set out in paragraphs.</p> <p>The Applicant agreed that both parts of the exception test need to be met, being wider sustainability benefits to the community; and the scheme being safe over its lifetime. The FRA covers the latter point. The first point (wider benefits to the community) is described within the Scheme objectives and the details on the purpose of the Scheme (Chapter 1 of the PEIR). (12.05.2022).</p> <p>The development and output of the ordinary watercourse model (8.1) has been reviewed and approved by the LLFA and considered fit for purpose.</p> <p>The Environment Agency have reviewed the ordinary watercourse Infoworks ICM modelling for the southern end of the West Cheltenham link road. They consider the modelling to be reasonable and requested that the Flood Risk Impacts Technical Note TR010063 – APP 9.20 is updated to also reference the Upper End (+94%) climate change scenario in section 6.1 Extreme Event. The Environment Agency requested some brief commentary around the sensitivity of model results to model parameters such as mannings roughness and downstream boundary conditions could be added to the report.</p> <p>The updates have been made and submitted to examination at Deadline 5 (ref: REP5-021).</p> <p>The Applicant and the EA agree that it is for the Examining Authority to ultimately confirm if the Scheme is</p>	15/10/2024 – position confirmed at ISH4.

Matter Reference number	Position	Date and method of agreement
	essential infrastructure.	
8.16.	<p>If part one of the test is felt to outweigh the presence of a vulnerability use not defined as essential infrastructure which is partially located in Flood Zone 3b, as this would be unavoidable as a result of the sequential test decision, then the exception test must be passed."</p> <p>The Applicant confirmed that if the Scheme is reclassified as being Highly Vulnerable, then its presence in Flood Zone 3 is not compatible. However, by virtue of its location and the sequential test, that the Exception Test would still need to be passed too.</p> <p>FZ3b is now 1 in 30yr event which reflects the overland flow from the River Chelt to the M5. At the time of modelling this was the 1 in 20yr flood, and there was no functional floodplain FZ3b.</p> <p>The Flood Risk Assessment (FRA) describes the Scheme as Essential Infrastructure, based on it being transport infrastructure with junctions to the existing SRN road network, as well as a Nationally Significant Infrastructure Project (NSIP).</p> <p>The Applicant agrees that the exception test needs to be passed and the FRA has sought to address this.</p>	15/10/2024 – position confirmed at ISH4.
8.17.	<p>Any solution for the crossing of the Link Road through the Chelt flood plain as highlighted in sections 5.4.42 to 5.4.48 of the PEIR FRA, should take account of the extents of Flood Zone 3b, where an open viaduct structure should be considered to meet the avoidance principles set out in table 5.1 (PEIR FRA).</p> <p>The Link Road structures are described in the Scheme modelling report (issued March 2022). Testing has been undertaken to evaluate the size of conveyance structures and optimise the balance between a zero afflux structure and something smaller and its adverse impacts upstream. This follows the hierarchy of flood risk management taking into account the wider social, environmental and economic factors in the design. Further testing was undertaken to establish the location of the floodplain crossing in relation to the overland flow paths.(12.05.2023).</p> <p>As requested by the EA, the Applicant has added the FZ3b maps to the FRA report which was submitted at deadline 5 (Ref: REP5-008 and REP5-010). This has the Scheme superimposed on the FZ3b maps with an insert to show the detail at the Link Road culverts. This indicates that the collective culverts span most of FZ3b. The culvert grouping was initially designed to collect the full Design Flood (FZ3 plus climate change) resulting in 49 openings. The number of culverts was then iteratively reduced (to 37) to maintain an acceptable impact on flood level. The Applicant recognises that there is some overlap of the proposed road embankment and FZ3b, although the limited hydraulic effects of this are proven through the flood modelling.</p>	Agreed at meeting 21/08/2024.

Matter Reference number	Position	Date and method of agreement
8.18.	<p>The existing M5 crossing on the River Chelt is assumed to be embedded due to the presence of gravel and silt substrates through the culvert). Elsewhere there is reference to the potential need to clear this material. The Environment Agency requested that model runs including blockage runs include this sediment and high channel roughness to ascertain if the natural substrate can be retained in the long term to maintain habitat continuity and quality and reduce or remove unsustainable ongoing management and disposal of material to a minimum.</p> <p>The Environment Agency have reviewed the ordinary watercourse Infoworks ICM modelling for the southern end of the West Cheltenham link road. They consider the modelling to be reasonable and requested that the Flood Risk Impacts Technical Note TR010063 – APP 9.20 is updated to also reference the Upper End (+94%) climate change scenario in section 6.1 Extreme Event. The Environment Agency also requested some brief commentary around the sensitivity of model results to model parameters such as mannings roughness and downstream boundary conditions could be added to the report.</p> <p>The updates have been made and submitted to examination at Deadline 5 (ref: REP5-021).</p>	Via email discussion 24/10/2024
8.19.	<p>Change Application 2: As parts of the changes will result in significant alterations to some elements of the proposals in relation to the alignment and design structures (especially in relation to Changes 2 and 6) it was considered by the Environment Agency that the original Flood Risk Assessment (FRA) contained within Appendix 8.1 of the Environmental Statement document TR010063 – APP6.15 (Dated 2023) would no longer align with the principles of the application due to the proposed design changes, especially within Chapter 5. Whilst the addendum submits detail of the potential impacts it fails to deal in appropriate detail to the design changes which would be expected to be included in a site-specific FRA. This would also provide an appropriate opportunity to include the most up to date outputs from the modelling and more clearly incorporate these into the body of the assessment. Therefore, the Environment Agency would like to see these changes updated and included within the FRA as this would align with the updated scheme.</p> <p>Applicant response: The Applicants consider that an Addendum to the Flood Risk Assessment is an appropriate methodology for assessing the changes. The Addendum is to be read in conjunction with the FRA [it does not supersede the FRA], and whilst the Applicant acknowledge that this can create readability challenges it considers that this issue regarding its form does not invalidate the reliance that can be placed on the document. The Applicant confirms that the FRA Addendum will be certified alongside the original FRA and therefore to the extent it needs to be relied on for any detailed design and FRAP processes, the entire document (Core and Addendum) needs to be taken into account. Given the substantial amount of work that would be required to facilitate this request at this stage it is not considered appropriate to update the FRA to incorporate the changes application.</p>	Via email discussion 26/11/2024

Matter Reference number	Position	Date and method of agreement
	The Environment Agency confirms that at this later stage in the DCO process we agree that the Addendum is acceptable.	
9.	Landscape and Visual	
10.	Geology and Soils	
11.	Cultural Heritage	
12.	Materials and Waste	
13.	Population and Human Health	
14.	Climate	
15.	Assessment of Cumulative Effects	
16.	Engineering Design	
17.	Draft Development Consent Order	
17.1	<p>Comments on Relevant Representation 20.06.2024 (REP1-067) at Deadline 1: Schedule 2, Part 1, Requirements</p> <p>Requirement 3: Environmental Management Plan – The Environment Agency requests that it is added as a specific consultee to the discharge of this requirement so that it can advise on matters within its remit.</p> <p>F(vi) Emergency Preparedness and Response Plan including Flood Management Plan and Severe Weather Plan – This is not within our remit. However, we would want to see something put in place from a flood risk perspective, this is technically for the Emergency Planners to sign off at the Local Authority.</p> <p>The Applicant’s position is that the Environment Agency is not required to be consultee for the EMP as a whole and is noted in the Register of Environmental Actions and Commitments (REAC) as consultee on those matters related to its functions. The Applicant notes its position as set out in the Consents and Agreements Position Statement (APP-033) is to obtain Flood Risk Activity Permits (FRAPs) from the Environment Agency separate to that of the DCO and therefore the Applicant considers that its position regarding flood risk is or will be covered.</p> <p>The EA is satisfied that the Applicant will liaise with the EA on all matters within their remit ref REAC.</p>	Agreed 30.08.2024 via EA review of draft SoCG.

Matter Reference number	Position	Date and method of agreement
17.3	<p>Comments on Relevant Representation 20.06.2024 (REP1-067) at Deadline 1: Schedule 2, Part 11, Requirements</p> <p>The EA would like to be consulted on the detailed design due to the environmental impacts.</p> <p>The Applicant notes the Environment Agency’s written representation and has responded to the issue raised in its Response to Relevant Representations (REP1-043), entry 13.3, that states that the Applicant does not consider that it would be necessary to consult with the Environment Agency on detailed design due to its perception that there may be additional environmental impacts. The process by which the Environment Agency will be consulted will be through the specific requirements related to its functions and those elements of the REAC which require its input.</p> <p>The EA are satisfied that they will be consulted on all environmental matters that will require their input. Therefore, the EA are happy for this matter to be agreed.</p>	Agreed 30.08.2024 via EA review of draft SoCG.
17.4	<p>Comments on Relevant Representation 20.06.2024 (REP1-067) at Deadline 1: Schedule 2, Part 13, Requirements</p> <p>(3) The scheme must be fully implemented as approved and subsequently maintained prior to the completion of the development.</p> <p>The Applicant has amended this requirement to take into account the Environment Agency’s comments made in its relevant representations.</p> <p>The Applicant does not consider the additional wording suggested in the written representations made by the Environment Agency to be appropriate.</p> <p>Firstly, paragraph 13(3) contains the obligation already to fully implement the detailed scheme for the flood compensation area. The additional wording of “prior to completion of the development” is not necessary. The Applicant considers that the measures identified within the scheme will be necessary in order to realise the mitigation reported on within the environmental statement and flood risk assessment.</p> <p>Therefore, the Applicant would not be able to simply not implement the flood compensation scheme without introducing effects not reported on within its environmental statement. In addition, the Applicant considers that any scheme agreed between the Environment Agency and the Applicant pursuant to paragraph 13 will need to consider the appropriate triggers for completion of those elements as informed by detailed design. Therefore, it is not the case that there would not be consideration of appropriate triggers it is just that this would be contained in the scheme itself. The Applicant considers that in all likelihood, that works which involve the removal of land from</p>	Agreed 30.08.2024 via EA review of draft SoCG.

Matter Reference number	Position	Date and method of agreement
	<p>the floodplain would require compensatory works to be in place prior to their commencement. The extent of compensation required at any given point during the construction of the Scheme will be dependent on the works being undertaken in the floodplain. Given this level of detail, the appropriate location for setting out triggers is the documents produced pursuant to this requirement, rather than the dDCO itself. Lastly, it is not possible for the Scheme to be “subsequently maintained prior to the completion of the development” as the maintenance of the Scheme will continue during the lifetime of the authorised development.</p> <p>The Environment Agency has confirmed that it is satisfied with the wording of Requirement 13 – Flood Compensation and Flood Storage and does not require any amendments 30/08/2024</p>	
17.5	<p>Comments on Relevant Representation 20.06.2024 (REP1-067) at Deadline 1: Schedule 2, Part 2, Procedure for the discharge of requirements Paragraph 18 – The EA requested that this paragraph was amended. As a statutory consultee the EA would like to be included in the provision.</p> <p>“If consultation with a consultee is required, the relevant planning authority must issue the consultation to the consultee within five business days of receipt of the application and notify the undertaker in writing specifying any further information requested by the consultee within five business days of receipt of such a request.”</p> <p>The Applicant confirmed that “application” referred to in paragraph 18 is the application set out in paragraph 17 being an application for any consent, agreement, or approval. Where consultation is required pursuant to an application under paragraph 17, paragraph 4 would apply. Paragraph 4 makes clear that it is not the arbiter of the discharge of the requirement who would carry out the consultation but the undertaker. Where the undertaker is applying to discharge a requirement which requires detailed to be submitted following consultation with another party, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker.</p> <p>The EA have reviewed this with their legal team and have confirmed this matter is agreed.</p>	Via email discussion 24/10/2024
17.2	<p>Comments on Relevant Representation 20.06.2024 (REP1-067) at Deadline 1: Schedule 2, Part 8, Requirements</p> <p>We concur with Land and groundwater contamination section that we should be consulted on any remedial works.</p> <p>(5) We suggest you add the wording that is in bold - (5) Remedial measures must be carried out and their results submitted to the competent authority for approval in accordance with the scheme approved under subparagraph (4).</p> <p>Applicant response to Written Representations 09.07.2024 (REP2-008):</p>	Via email discussion 24/10/2024

Matter Reference number	Position	Date and method of agreement
	<p>The Applicant considers that the wording suggested by the Environment Agency to be similar to that suggested in their relevant representations and the same as to its purpose. The Applicant’s response is set out in its Response to Relevant Representations (REP1-043), entry 13.2. which states that the requirement as currently drafted already ensures that a written scheme and programme for remedial measures is to be submitted to and approved in writing by the county planning authority following consultation with the Environment Agency and relevant planning authority. The Applicant would be bound in law to carry out the remedial measures as per requirement 8(5). In addition, the drafting proposed by the Environment Agency isn’t clear as to its scope. It is not clear as to the meaning of “results” nor is it clear who the “competent authority” should be. The Applicant’s position remains the same that the requirement as drafted is appropriate.</p> <p>The draft wording for Requirement 8 has been amended and agreed with the Environment Agency following the ISH4, and has been reflected in the DCO.</p>	
18. Land		
19. Environmental Management Plan		
19.1	<p>The EA required details such as the location of work compounds, location of temporary spoil storage areas, details of the phasing works and a flood warning/evacuation procedure to all be included with the supporting details for any planning application. This may avoid the need for both parties to duplicate the same work to obtain separate permissions under the Environmental Permitting Regulations 2016.</p> <p>An assessment and advice on construction phase methodology and approaches are outlined in the Flood Risk Assessment (FRA) and the 1st iteration EMP, and requirements of the Contractor are set out in the REAC.</p> <p>The DCO does not disapply the Environment Agency permitting requirements. Further detail will be prepared post DCO. Temporary Flood Risk Activity Permit (under the Environmental Permitting Regulations 2016) will be required. The detailed modelling will be a requirement of the temporary construction phase FRAP (under the Environmental Permitting Regulations 2016).</p> <p>REAC commitment WE15 states requirements for specific temporary floodplain compensation will be determined by detailed flood risk modelling.</p>	Agreed 30.08.2024 via EA review of draft SoCG.
20. Construction Traffic Management Plan		

5. Matters Outstanding

5.1. Principal matters outstanding

- 5.1.1. All the matters outstanding between Applicant and the Environment Agency have now been agreed and resolved in this final position SoCG submitted at Deadline 10. .

5.2. Matters outstanding

Table 5-1 - Matters Outstanding

Matters Reference Number	Position of Interested Party	Response	Date of the last position
1.	Principle of Development (all matters now agreed)		
2.	Consultation		
3.	Assessment of Alternatives		
4.	Environmental Impact Assessment Methodology		
5.	Air Quality		
6.	Noise and Vibration		
7.	Biodiversity (all matters now agreed)		
8.	Road Drainage and the Water Environment (all matters now agreed)		
9.	Landscape and Visual		
10.	Geology and Soils		
11.	Cultural Heritage		
12.	Materials and Waste		
13.	Population and Human Health		
14.	Climate		
15.	Assessment of Cumulative Effects		
16.	Engineering Design		

Matters Reference Number	Position of Interested Party	Response	Date of the last position
17.	Draft Development Consent Order (all matters now agreed)		
18.	Land		
19.	Environmental Management Plan (all matters now agreed)		
20.	Construction Traffic Management Plan		



AtkinsRéalis

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

Tel: +44 (0) 8000 514 514