

M5 Junction 10 Improvements Scheme

Statement of Common Ground West Cheltenham (Golden Valley) TR010063 - APP 8.9

Regulation 5(2)(q)

Planning Act 2008

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



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M5 Junction 10 Improvements Scheme Development Consent Order 202[x]

8.9 Statement of Common Ground West Cheltenham (Golden Valley)

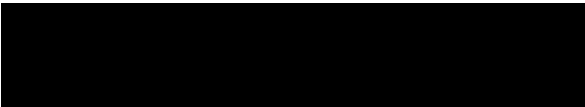
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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared agreed by (1) Gloucestershire County Council, (2) Cheltenham Borough Council (developer) and (3) Midlands Land Portfolio Limited (MLPL).

Signed: Chris Beattie



On behalf of Gloucestershire County Council

Date: 26/11/2024

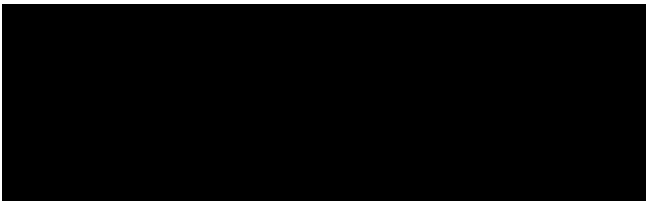
Signed: Nick Matthews



On behalf of HBD

Date: 28/11/2024

Signed: Adam Tustain



On behalf of Midlands Land Portfolio Limited (MLPL)

Date: 28/11/24

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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) and section 43(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 a recommendation to the SoS.
Flood Risk Assessment (FRA)	An assessment of 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 is 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.
Joint Core Strategy (JCS)	Joint Core Strategy between Cheltenham Borough Council, Gloucestershire County Council and Tewkesbury Borough Council
Local Planning Authority (LPA)	The county council, metropolitan, or district council, which has statutory responsibilities within its administrative areas.

Term	Meaning / Definition
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, announced in June 2021, and provides a form of planning protection from development of land in the vicinity of the M5 Junction 10 Improvements 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 Scheme made by 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 junction; the widening of the A4019 east of the junction to the Gallagher Retail Park Junction; and a new link road from the A4019 to the B4634. A small section of the A4019 will also be widened to the west of the proposed junction.

1.2. Purpose of the report

- 1.2.1. This document is a Statement of Common Ground (SoCG) between GCC (the Applicant) and the key development partners for the West of Cheltenham allocated site - Cheltenham Borough Council (CBC), NEMA Strategic Land Ltd (NEMA), HBD ~~X Factory~~ (HBD), St Modwen and Midlands Land Portfolio Limited (SM&MLPL) (The West Cheltenham Developers (Also known as Golden Valley). The SoCG is in relation to the M5 J10 Improvements Scheme.

Table 1.1 provides context of the applications that relate to each developer.

Policy Allocation	Planning Application	Description	Status
Policy A7 – West Cheltenham Development Area (Golden Valley) SITE C	22/01817/OUT (TBC reference: 22/01107/OUT) (northern parcel)	Outline planning application for residential development comprising a mixture of market and affordable housing (use class C3), which could include retirement/extra care accommodation (use class C2/C3) a flexible mixed use area with a community hub (including potentially use classes E, F1 and F2) a primary school and children's nursery to include use of sports pitches to provide public recreation space, site clearance and preparation, green infrastructure, walking and cycling routes, formal and informal public open space, sports pitch provision, drainage and other associated works and infrastructure, including utilities and highways works, all matters reserved except partially for access <i>Up to 1100 residential units Up to 1000sqm mixed use area, comprising a community hub and flexible commercial, business and service floor space.</i>	Submitted – Agreed Expiry Date: 30 Jun 2024. Not yet determined. National Highways recommended that the application should not be granted for a further period of six months from the 21 March 2024.
	23/01874/OUT (northern parcel)	Outline planning permission (with all matters reserved except for access) for a severable and phased development to provide new homes (Use Class C3) and non-residential	Submitted – Agreed Expiry Date: 30 Jun 2024.

		<p>floorspace comprising flexible commercial and community uses (Use Class E), as well as land for potential primary education (Use Class F1) and other associated infrastructure.</p> <p>443491 residential units, 500sqm of flexible non-residential uses</p>	<p>Not yet determined.</p> <p>National Highways recommended that the application should not be granted for a further period of six months from the 28 May 2024.</p>
	23/01875/OUT (southern parcel)	<p>Outline planning permission (with all matters reserved except for access) for a severable and phased development to provide non-residential floorspace comprising flexible commercial and community uses (Use Classes E, F and Sui Generis), new homes (Use Class C3) and other associated infrastructure.</p> <p><i>Up to 576 residential units Up to 125,698 sqm of non-residential floorspace, including commercial and community uses</i></p>	<p>Submitted – Agreed Expiry Date: 30 Jun 2024.</p> <p>Not yet determined.</p> <p>National Highways recommended that the application should not be granted for a further period of six months from the 28 May 2024.</p>
	23/01418/SCOPE	<p>Request for a scoping opinion for the NEMA owned land within the West Cheltenham allocation</p>	<p>Scoping Opinion Provided on 20 September 2023.</p>
	24/01268/OUT (NEMA application)	<p>Outline planning permission (with all matters reserved) for a severable development to provide the following severable elements: flexible commercial uses (Use Class E and Sui Generis); healthcare centre (Use Class E); flexible community uses (Use Class F); new homes (Use Class C3); other associated infrastructure.</p> <p><i>Up to 365 residential units Up to 2,475sqm of Class E(a) (retail), 3,750sqm Class E(b) (scale of food and drink) and Class E (e) (healthcare) 727sqm and Class E (g) (office and industrial) 37560sqm.</i></p>	<p>Application Validated 31 July 2024.</p> <p>Currently in consultation until 28 August.</p>

1.2.2. The document identifies the following between the parties:

- Summary of engagement and consultation (Table 2.1)
- Matters which have been agreed (Table 4.1); and
- Matters currently outstanding (Table 5.1)

1.2.3. The SoCG will continue to evolve as the application for development consent progresses through the Examination stages.

1.3. Status of this SoCG

- ~~1.3.1. Discussions have been had between the developers and the Applicant and this SoCG presents the final position between the parties at Deadline 10 on 28 November 2024. The SoCG has been shared with the developers however, no response to date has been received. The Applicant has submitted the SoCG at Deadline 5 on 1 October as requested by the ExA in Q1.0.2. The Applicant would like to make it clear to the ExA that the SoCG is still being reviewed by the third parties and that discussions are on-going between parties and a further updated SoCG will be submitted at future deadlines.~~
- ~~1.3.1. The letters of in principle support submitted at D3 are incorporated into the SoCG and included as matters agreed in the SoCG (Table 4.1) where appropriate. With regard to matters outstanding (Table 5.1), these have been taken as the issues raised in Interested Parties submissions during the Examination. The Applicant's response in Table 5.1 is the position at Deadline 4 and does not reflect correspondence between parties over the last month. There is a column in Table 5.1 for IP response which is currently blank and awaiting third party position.~~

2. Consultation

2.1. The Role of Gloucestershire County Council (the Applicant)

2.1.1. In this SOCG, Gloucestershire County Council (GCC) is the Applicant for Scheme and this is separate and independent from the other functions and statutory duties carried out by the Council. As Applicant, GCC are 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 Developers

2.2.1. Policy A7 expects the delivery of approximately 1,100 residential homes and 45 ha. of business development, focussed on a cyber security hub.

2.2.2. CBC have been engaged in their capacity as promoter/developer of the Golden Valley Development, which is separate to the role of the Council as a local planning authority.

2.2.3. HBD ~~X Factory Limited~~ are the development partner of ~~CBC~~ for the Golden Valley Development.

2.2.4. MLPL is a property development arm of Severn Trent Water ~~Limited and Northern Trust~~. MLPL appointed St Modwen as development partner for the Golden Valley Development in January 2021. In October 2022 an application for outline planning permission (22/01817/OUT) was submitted St Modwen and MLPL for the development outlined below. The application is currently undetermined and now has an agreed expiry date of 30 June 2024.

Land to the South of Old Gloucester Road (B4634), Cheltenham, Gloucestershire

2.2.5. *Outline planning application for residential development comprising a mixture of market and affordable housing (use class C3), which could include retirement/extra care accommodation (use class C2/C3) a flexible mixed-use area with a community hub (including potentially use classes E,F1 and F2) a primary school and children's nursery to include use of sports pitches to provide public recreation space, site clearance and preparation, green infrastructure, walking and cycling routes, formal and informal public open space, sports pitch provision, drainage and other associated works and infrastructure, including utilities and highways works, all matters reserved except partially for access.*

2.2.6. The above application site is 64 hectares. The residential component totals 1,100 homes with an illustrative accommodation mix supplied with a focus on three and four bedroom homes but ranging from one bedrooms flats to five bedroomed houses. The indicative non-residential land uses comprise 450 sqm small convenience store, 250sqm of café space and co-working office space and 300 sqm of community hub elements (parcel space, community space and bookable rooms and site offices/management).

2.2.7. NEMA Strategic Land Ltd is a developer who are in active pre-application discussions with CBC in relation to the potential of bringing forward a mixed use development on the A7 allocated land.

2.2.8. A collaborative masterplan is included in the outline application as a live document, and this indicates that CBC and development partners are expected to submit further applications for parcels of land within the east and south of the JCS allocation site, for potentially 1,500 additional homes, plus the cyberpark.

2.2.9. The West of Cheltenham Developers role in relation to the DCO process derives from their joint venture in the development of Golden Valley, a strategic development site identified at West Cheltenham in the adopted Joint Core Strategy.

2.2.10. The Scheme will support the development of the Golden Valley.

2.3. Consultation Methodology

2.3.1. The Applicant has engaged with relevant stakeholders including developers on the proposed developer contributions to support the delivery of the Scheme in two phases of consultation. The first phase of consultation took place from 20th September to 20th October 2023 and the second phase, which started on 20th November 2023– and is ongoing, ~~which the latest meeting to discuss held on the 30 September 2024..~~

2.3.2. The three sites identified by The Applicant for this engagement are:

- Northwest Cheltenham (Safeguarded land);
- Northwest Cheltenham development; and
- The West Cheltenham (Golden Valley) development.

2.3.3. These sites are in the Joint Core Strategy (JCS), a partnership between Gloucester City Council, Cheltenham Borough Council (CBC) and Tewkesbury Borough Council (TBC) which sets out a strategic planning framework for these three areas. The Adopted JCS 2011-2031 is a coordinated strategic development plan which shows how the region will develop and includes a shared spatial vision targeting 35,175 new homes and 39,500 new jobs by 2031.

2.3.4. The funding for the Scheme was originally secured via Homes England's Housing Infrastructure Fund (HIF). Since the original funding announcement, the Scheme has been subject to scope change resulting in a longer and more costly delivery programme which, when considering high-cost inflation has created a funding gap. GCC is working with Scheme funders Homes England and the Local Planning Authorities to address this gap including an intent to recover direct financial contributions from the dependent strategic housing allocations (and any further dependent sites that may come forward) towards this funding gap.

2.3.5. In the first phase of the engagement, some stakeholders presented objections to the developer contributions methodology presented to them, requesting further information on the inputs used in the calculations. The need for additional information was also mentioned by both Cheltenham and Tewkesbury Borough Councils stating that it would help build transparency in future S106 negotiations.

2.3.6. Additional information on the developer contribution calculation methodology was provided in the second phase of engagement. The representations received ~~so far~~ mainly requested additional information to be provided to support the methodology. Between 19 March and 30 September, the Applicant– held meetings with stakeholders to discuss scheme updates, modelling, and developer contributions. These discussions also covered the Development Consent Order (DCO) process.

2.3.7. In principle letters of support from the developers of West Cheltenham were submitted to the ExA at Deadline 3 (REP3-062).

2.4. Summary of Consultation

2.4.1. The Applicant has been in consultation with the developers interest in the development of the West Cheltenham during the development of the Scheme's design, including the optioneering process, statutory and non-statutory consultation, preliminary design and

during the DCO process. The parties ~~are~~ have ~~continued~~ ing to engage through the DCO examination.

2.4.2. The engagement outlined in Table 2-1 covers consultation with West Cheltenham developers which pertains to matters raised in this SoCG. Figure 1.1 shows the site allocations in the JCS and current planning applications associated with the allocations. The West Cheltenham land is Site C within Figure 1.1.

2.4.3. The consultation with developers to date is set in Table 2-1.

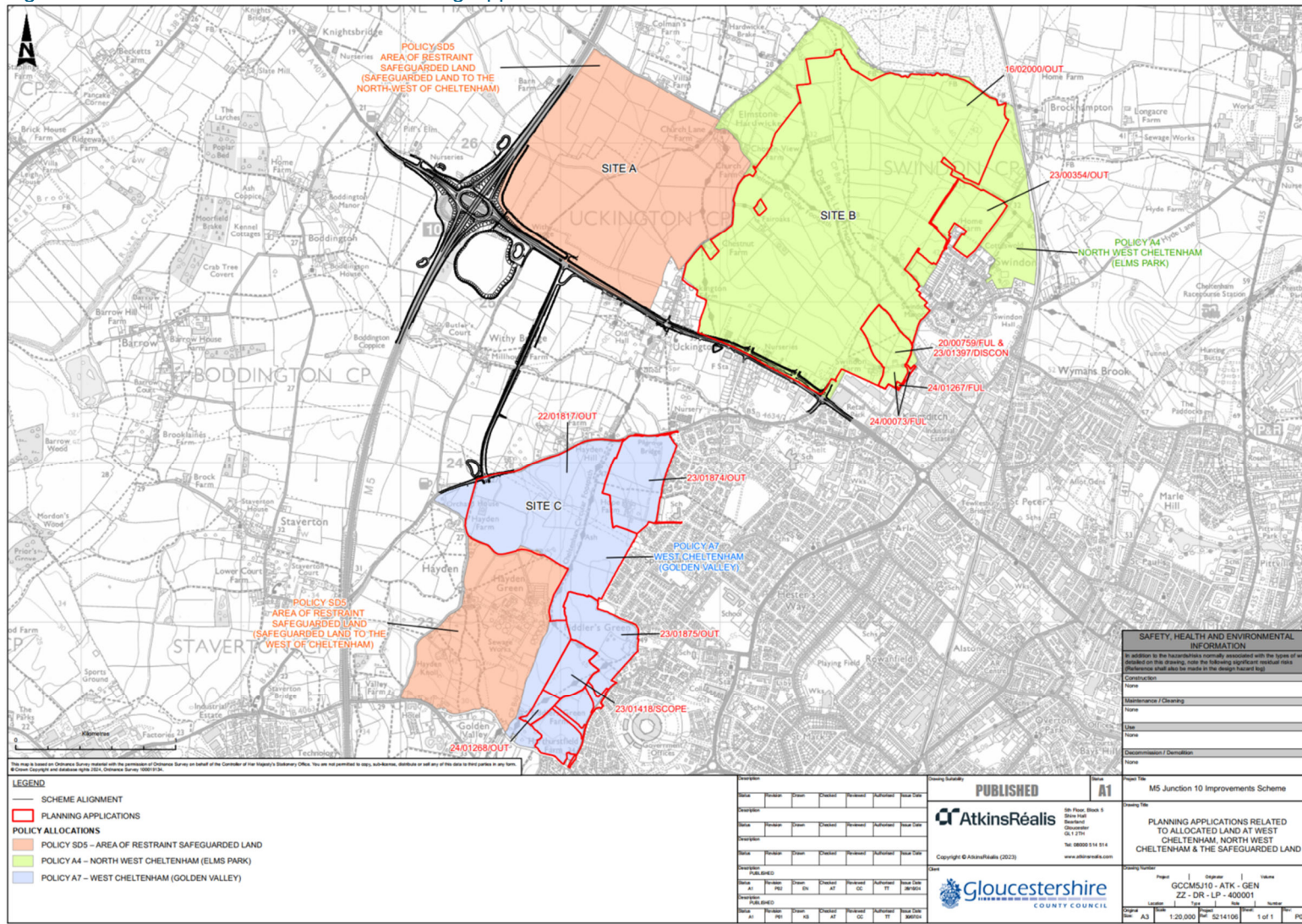
Table 2-1 - Consultation with Developers

Date	Method	Parties concerned	Matters discussed
16/06/2021	Email	MLP <u>L</u>	M5 Junction 10 preferred route announcement made via email.
18/06/2021	Email	MLP <u>L</u>	Atkins PM shared the latest interim design update, layout plans, and 2D AutoCAD model files for the highway layout.
21/06/2021	Email	SM&MLPL	Prior to the preferred route announcement, Atkins PM shared the assumptions of the traffic model (20/04/2021). An updated traffic modelling assumption was sent (18/06/2021). MLP <u>L</u> raised requested further details.
18/08/2021	Email	SM&MLPL	MLP <u>L</u> requested a catchup to understand the latest progress on the Project.
23/08/2021	Email	Atkins / SM&MLPL / St Modwen	Atkins PM provided an update on the project, informing them that the Scheme has been classified as an NSIP and a DCO application is due to be made in late 2022.
08/09/2021	Virtual Meeting	CBC / Atkins / GCC	Atkins PM delivered presentation on latest updates to the Scheme.
16/09/2021	Email	Atkins PM / CBC	Atkins PM shared a copy of the M5 Junction 10 update presentation, and minutes of a meeting held in previous week.
16/09/2021	Email	SM&MLPL	Atkins PM shared a link containing a copy of the presentation, notes of previous meeting and latest design after a Scheme meeting held in the previous week.
20/09/2021	Email	Atkins PM / SM&MLPL	Atkins PM confirmed traffic model assumptions remain unchanged as requested in meeting. MLP asked for clarity on LinSig versions. Atkins PM provided further detail clarifying network versions.
13/10/2021	Email	Atkins Comms team / MLP <u>L</u>	Email sent to MLP <u>L</u> to confirm the address for USB delivery containing all consultation documents.

Date	Method	Parties concerned	Matters discussed
11/11/2021	Email	SM&MLPL	MLPL confirmed address and point of contact for consultation documents.
15/02/2022	Email	CBC	Representation from CBC's development partner for the development of land at West Cheltenham (Golden Valley Development).
30/05/2022	Email	Atkins PM / SM&MLPL	Atkins PM shared a draft agenda for the upcoming MLP meeting.
15/07/2022	Email	Atkins PM / SM&MLPL	Atkins PM shared placeholder for a meeting to update on flood modelling.
05/08/2022	Email	Atkins Comms Team / CBC	Additional targeted non statutory consultation notification sent to CBC along with the proposed design changes and plans via secure FileTransfer link.
26/08/2022	Email	Atkins Comms Team / CBC	Follow up email sent to CBC as a reminder to have representations to the targeted non statutory consultation before 04/09/2022.
15/02/2023	Email	Savills on behalf of MLPL & St Modwen	Email response received to further targeted consultation (Jan-Feb 2023).
02/03/2023	Meeting (Virtual)	Atkins PM team / SM&MLPL / Savills / WSP / GCC PM	Meeting held by Atkins PM to update on status of the Scheme. Attendees were informed of a delay to the DCO submission as Homes England treasury review of their portfolio of projects. Updates were provided on St Modwen's outline planning application submitted October 2022 (Ref: 22/01107/OUT). Targeted consultation responses were discussed.
27/05/2023	Email	Atkins PM / SM&MLPL	Atkins PM shared a copy of the draft SoCG and the following finalised draft DCO documents; <ul style="list-style-type: none"> • Planning Statement • Environmental Statement (Non-technical summary, chapters 1-15 and figures) • Environmental Management Plan • Transport Assessment • Register of Environmental Actions and Commitments • Environmental Masterplans • General Arrangement Drawings • Works Plans
20/10/2024	Email	HBD x Factory Limited	Email received in response to financial contributions material sent by GCC.

Date	Method	Parties concerned	Matters discussed
22/05/2024	Meeting	GCC PM/ HBD	Discussed general development progress tracker.
23/05/2024	Meeting	GCC PM/ NEMA	Discussed contribution methodology.
28/05/2024	Meeting	GCC PM/ St Modwen	Discussed secondary access pending link road
14/06/2024	Meeting	GCC PM/ SM&MLPL / HBD	Discussed active travel around their sites.
19/06/2024	Meeting	GCC PM/ HBD	Discussed general development progress tracker.
21/06/2024	Meeting	GCC PM/ HBD	Discussed viability and DCO contributions.
18/07/2024	Meeting	GCC PM/ SM&MLPL/NEMA/HBD	Discussed funding DCO methodology and viability.
18/07/2024	Email	MLPL and St Modwen	Letter in principle support of funding methodology received from MLPL and St Modwen
30/07/2024	Email	HBD	Letter in principle support of funding methodology received from HBD.
30/07/2024	Email	NEMA	Letter in principle support of funding methodology received from NEMA.
21/08/2021	Meeting	West Cheltenham developers	Funding apportionment methodology and compliance with S.106 tests
23/09/2024	Meeting	West Cheltenham developers	Funding apportionment methodology and compliance with S.106 tests
<u>12/11/2024</u>	<u>Meeting</u>	<u>Savills, HBD and Applicant team</u>	<u>Meeting to discuss outstanding matters on the SoCG.</u>
<u>25/11/2024</u>	<u>Meeting</u>	<u>Savills, HBD and Applicant team</u>	<u>Meeting to review and agree final SoCG.</u>

Figure 1.1 - JCS Site allocations and Planning Applications Plan



3. Topics covered in this SoCG

- 3.1.1. The following table is a summary of the topics which may be considered within this SoCG. This table has been updated since the submission of the DCO application in December 2023 where a draft SoCG was submitted and now follows a theme based approach rather than by DCO document. The key themes, and sub topics discussed are set out in Table 3.1.
- 3.1.2. On 18 July and 30 July 2024, the Applicant received letters from HBD, NEMA and MLPL and St Modwen. The letters outlined that, subject to a range of caveats, including the review of the revised funding methodology, there is support in principle of the development sites contributing to a methodology to make up the funding shortfall subject to a number of conditions. The conditions in the letters ~~are~~were submitted at RE93-062 into the Examination at Deadline 3.

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

Overarching theme	Topic
1. Planning, policy, alternatives and need	Scheme Assumptions
	Need for the Scheme - Link Road
2. Site specifics	Link Road
	Utilities
	Drainage and Flood Risk Matters
	Highways Matters
	SANG Area
3. Funding	Contribution Methodology
	Developer Contributions and CIL
	Transport Modelling
	Funding Proportion

4. Matters Agreed

- 4.1.1. ~~Table 4-1 will show these matters which have been agreed, including the matter reference number, and the date and method by which it was agreed. Table 4-1 will be added to as the SoCG process is progressed.~~ On 18 July and 30 July 2024, the Applicant received letters from HBD, NEMA and MLPL and St Modwen. The letters outlined that, subject to a range of caveats, including the review of the revised funding methodology, there is support in principle of the development sites contributing to a methodology to make up the funding shortfall subject to a number of conditions.

Table 4-1 – Matters agreed

Topic and Reference Number	Topic	Position	Date of the last position
1. Planning, Policy, need and alternatives			
1.1	Planning permission	It is agreed that Planning permission is granted for each parcel of the development site in respect of each developer prior to the developer contributing towards the funding.	01.10.2024
<u>1.2</u>	<u>Deadweight Capacity</u>	<u>Whilst the magnitude and distribution of the ‘deadweight capacity’ of the existing highways network is not agreed between the parties, it is agreed that this is not a matter which should impact the DCO process. The deadweight capacity will be agreed between relevant local planning authorities in the determination of the planning applications across West Cheltenham and North West Cheltenham.</u>	<u>25.11.2024</u>
<u>1.3</u>	<u>Link Road Alternatives</u>	<u>The parties have different views on the alternative options available for the Link Road however they agree that (a) the alternatives were tested and that a decision taken as to which should form part of the DCO; and (b) that to make a change would not be possible within the confines of the DCO process. It is agreed that subject to traffic modelling, works to- Withybridge Lane may provide an interim alternative to the Link Road for a proportion of the West of Cheltenham allocation.</u>	<u>25.11.2024</u>
2. Site specifics			
<u>2.1</u>	<u>-Connection to the Link Road to Development</u>	<u>SM/MLPL raised a number of detailed design concerns over the proposed junction and associated arrangements for the connection to the south from Old Gloucester Road into the West Cheltenham development. There is a disparity between the DCO application and the planning application submitted by MS/MLPL. It is agreed that this disparity is minor in nature and can be resolved through detailed design. Amongst other things this will required a coordinated approach to the diversion of the 11kv cables that cross this part of the site and the provision of active travel on land which the applicant proposes to CPO. Provided these minor changes are possible and that the applicant works positivity on an ongoing basis with SM/MLPL there is no objection to the application proposals.</u>	<u>25.11.2024</u>

<u>2.2</u>	<u>SANG</u>	<u>The application proposals reduce the SANG proposed as part of the SM/MLPL planning application. This loss of SANG has been compensated for elsewhere on land within the ownership of MLPL. MLPL would be free to argue loss pursuant to any CPO claim, which would be determined separately to the DCO Examination process.</u>	<u>25.11.2024</u>
3. Funding			
3.1	CIL compliance	It is agreed that: <ul style="list-style-type: none"> - The contribution methodology must be CIL compliant <u>and that any financial contributions from the developments proposed are only lawful if they comply with CIL Regulation 122.</u> 	01.10.2024
3.2	Site specific viability	It is agreed that: <ul style="list-style-type: none"> - Consideration will be given to any site-specific viability issues in determining contributions. <u>The applications are subject to viability appraisals which have been submitted to the local planning authorities. It is the local planning authorities who will ultimately determine the financial contribution to be made towards J10 improvement work.</u> - Consideration be given to how the Community Infrastructure Levy may be used to also address the funding gap, noting that the LPA's determine how and where CIL we be spent. 	01.10.2024
3.3	Revised methodology – other development sites	It is agreed that: <ul style="list-style-type: none"> - The Applicant review their methodology to capture a wider range of other development sites that cumulatively would be dependent in whole or part on provision of the Scheme 	01.10.2024
3.4	Funding Gap – other sites contributions	It is agreed that: <ul style="list-style-type: none"> - The other sites identified, currently and in the future should contribute in line with the methodology described above to address the funding gap, 	01.10.2024
3.5	Alternative sources of funding	It is agreed that: <ul style="list-style-type: none"> - Alternative sources of funding will be sought (e.g. Community Infrastructure Levy, HIF funding etc), 	01.10.2024
<u>3.6</u>	<u>Funding Contributions</u>	<u>HBD raised concerns that that the commercial aspect of Golden Valley cannot afford to make a contribution; Contributions on this scale were not envisaged when the land was purchased. To require this level of financial contribution on would make the commercial development aspect unviable, risking the entire project thereby frustrating the economic and employment objectives that we are all striving to deliver. Without the employment uses the residential development could not proceed and if there is to be a contribution it should be shared amongst the various residential parcels.</u>	<u>25.11.2024</u>

		<u>The IP and Applicant agree that the viability issue is a matter which will be determined by the LPA, and is separate to the DCO process.</u>	
<u>3.7</u>	<u>Charging rationale</u>	<u>HBD raised the matter that the principle of basing the contributions on 'trip impact' is logical but given the significant dependence of the whole method on the trip input estimates, these will need to be agreed prior to the formal adoption of any method.</u> <u>It is agreed that the funding methodology is currently under review in consultation with HBD.</u>	<u>25.11.2024</u>
<u>3.8</u>	<u>Charging rationale</u>	<u>HBD raised the matter that the 'deadweight' capacity will need to be clarified, particularly what is assumed to comprise this figure and how it has been calculated. It does not appear like the deadweight has featured in the contribution calculations and an understanding of the levels which have been identified is important.</u> <u>The deadweight for the respective sites was used to calculate the development dependent trips at Junction 10 and 11 of the M5. It is agreed that this methodology is currently under review in consultation with HBD.</u>	<u>25.11.2024</u>
<u>3.9</u>	<u>Charging rationale</u>	<u>HBD raised the matter that the suitability of the strategic model as the only tool to be relied upon in deriving these figures must be evidenced.</u> <u>It is agreed that the funding methodology is currently under review in consultation with HBD.</u>	<u>25.11.2024</u>

5. Matters Outstanding

5.1. Matters outstanding

5.1.1. Table 5-1 shows those matters that ~~are remain~~ outstanding between the parties at Deadline 10, including that matters reference number, and the date of the latest position. ~~The issues have been collated from the Relevant Representation and Written Representations as well as other relevant submissions from the developers (refer to RR-034, REP1-063, REP1-064, REP2-016). Only St Modwen and Midland Land Portfolio Limited (SM&MLPL) have engaged through Relevant Representation and Written Representations to date.~~

Table 5-1 – Matters outstanding

Theme	Topic	Position of interested party	Applicant Response	Response by IP	Applicant Final Position	Status and date of latest Position
<p>1. Planning, Policy, need and alternatives <u>(all matters agreed)</u></p> <p>1.1 Scheme Assumptions</p> <p>SM&MLPL request clarification on the assumptions made in respect of the number of future dwellings, employment space and the delivery timescales which have informed the selection of the proposed package of works. They also request clarification of the proportion of the figures which are derived from the three major developments and what relates to future need.</p> <p>It is their understanding from the wider documentation that when funding was being sought in 2020, the core scenario was based on 8,914 homes coming forward up to 2041.</p> <p>We note the applicant's response to Action Point 13 from ISH1: 'Provide an explanation with respect to Table 6, contained in Appendix L of the Transport Assessment (APP-142) regarding development assumptions for the safeguarded land, deadweight development and dependant development etc.'</p> <p>The Applicant's response is not considered to answer the question posed in Action Point 13 and should be expressed more clearly. SM&MLPL are aware that further modelling to ascertain the deadweight development is being undertaken by National Highways. It is understood that this modelling is being undertaken to inform the LPAs to enable them to allocate a proportion of the deadweight development to each of the current planning applications, and to be able to apply a Grampian condition that caps development prior to the delivery of the Scheme and calculate each developments' towards the Scheme. SM&MLPL consider that the deadweight quantum is not a matter that relates to the DCO application, however, and would be more appropriately deferred to the LPAs for agreement through the subsequent, separate planning process for these applications.</p> <p>Should further detail be provided by the Applicant to the ExA's question, SM&MLPL wish to reserve the right to respond to further submissions relating to deadweight capacity.</p> <p>The Applicant considers that the response under Action Point 13 contained in the Applicant Written Submissions of Oral Case for Issue Specific Hearing 1 (ISH1) (REP1-046) clearly answers the question. The Applicant therefore requests that SM&MLPL provide clarity on specifically how the response does not answer the question and on which aspects of the answer they consider to be unclear.</p> <p>The Applicant agrees that the deadweight quantum is not a matter that relates to the DCO application and would be more appropriately deferred to the LPAs for agreement through the subsequent, separate planning process for these applications.</p> <p>Any further traffic modelling being undertaken to inform the LPA's regarding allocation of deadweight development to each of the current planning applications is being done as part of the planning application determination process for these applications and is separate to and therefore, not applicable to the M5 junction 10 DCO Examination.</p> <p>Deadline 5-01/10/2024</p>						
2. Site Specifics	2.1 Link Road	<p>SM&MLPL note that this document provides a high level response to the interested parties associated with the Strategic Allocations and the Safeguarded Land.</p> <p>The response sets out that the initial modelling that set the need for the Scheme, as proposed, was based on the link road within Golden Valley (GV) allocation being open i.e. no bus gate and concluded that a dualled link road between the A4019 and Old Gloucester Road would be required. Since then, a bus gate has been introduced and southbound traffic on the M5 which was travelling to the southern parcel of GV and which could have come off at J10 via the West Link Road is now required to use J11.</p>	<p>The Applicant would appreciate the interested party's confirmation of this point but it would appear from the information submitted as part of Planning Application 22/01817/OUT that the application as proposed is seeking to provide 1,100 homes in the area of the wider West Cheltenham allocation north of the proposed bus gate. On that basis the associated traffic anticipated to travel to the northern part of the West Cheltenham development would continue to be in line with that modelled for the Scheme and the JCS Transport Evidence Base , May 2017 which justifies the need for the West Cheltenham Link Road.</p>	<p><u>The aApplicant is correct in so far as the proposed residential dwellings is concerned, however, the primary source of additional trips from the West Cheltenham allocation emanates from the employment provision rather than the residential. The employment provision would be to the south of the bus gate and is therefore less impactful on J10.- This could present a different outcome from the existing modelling with the bus gate in place.</u></p>	<p><u>The Do Something 6a scenario considered access to the south of the site via M5 Junction 11 and the A40 resulting in significant delays including issues with the M5 mainline. Converting junction 10 to an 'All movements' junction and providing access from the A4019 to the West of Cheltenham via a new distributor link road significantly reduces the impact of the site on the local network. In view of the above the Applicant would highlight that the quantum of development proposed by the Golden Valley SPD exceeds that assessed by DS6a Scenario. When considering a 'no link road' world it is</u></p>	<p>Deadline <u>105</u> <u>25/04/11/2024</u></p>

Theme	Topic	Position of interested party	Applicant Response	Response by IP	Applicant Final Position	Status and date of latest Position
		The need for the West Link Road has never been tested for this scenario (i.e. it has never been justified that M5 J10 + A4019 improvements only are not sufficient with the bus gate in-situ).			<u>highly likely that the issues identified in DS6a would continue to occur.</u>	
	2.6 Drainage and Flood Risk	<p>The existing land drainage ditch along Old Gloucester Road is to be diverted as part of the Scheme. SM&MLPL understand from our discussions that the Applicant team will provide details illustrating location, levels and capacity, as well any proposed drainage outfalls into it (and whether they are attenuated prior to discharge).</p> <p>The existing watercourse alongside the triangle land to the west, and the new culvert beneath Old Gloucester Road, need to maintain their existing flood conveyance and storage capacity and therefore requires protection/diversion within the Scheme. SM&MLPL understand from our discussions that the Applicant team will share the hydraulic modelling outputs with the SM&MLPL to demonstrate this.</p>	<p>The existing roadside ditch is being realigned to sit alongside the widened highway. Swales, with check dams to attenuate the flow, will collect highway runoff. These will drain into the realigned ditch which in turn drains into the ordinary watercourses in this area. The swales and ditch realignment are to be sized at the detailed design stage.</p> <p>Until these details are determined at detailed design the Applicant is not in a position to confirm on final alignments and capacity.</p> <p>ICM flood modelling of the ordinary watercourse has been undertaken building on the work of SM&MLPL. It has been demonstrated to SM&MLPL through the modelling that the proposed culverting arrangement, moving from a single small irregular crossing to 3nr 2.1m wide 0.5m high openings does not increase flood risk to the south and in fact marginally increases conveyance during smaller floods. This is documented in the Flood risk Impacts technical note [AS-049].</p> <p>The flood modelling of this has been reviewed by the LLFA and the Environment Agency The model was shared with SM&MLPL on 23 September 2022. No further changes have been made.</p>		As per Applicant Response.	Deadline 10 28/11/2024

3. Funding

3.6 Funding contributions

HBD x Factory Limited

~~Our principal concern is that the commercial aspect of Golden Valley cannot afford to make a contribution; Contributions on this scale were not envisaged when the land was purchased, not least because the narrative surrounding the WCTIS (West Cheltenham Transport Improvement Scheme) project clearly stated that it was designed to facilitate development at Golden Valley (<https://www.gfirstlop.com/news/cyber-central/>). To require this level of financial contribution on would make the commercial development aspect unviable, risking the entire project thereby frustrating the economic and employment objectives that we are all striving to deliver. Without the employment uses the residential development could not proceed and if there is to be a contribution it should be shared amongst the various residential parcels.~~

~~The applicant has submitted viability reports to the LPA which are currently being reviewed as part of the planning application process. The Applicant intends to provide their own comments to the LPA in respect of these viability reports.~~

~~Deadline 5 01/10/2024~~

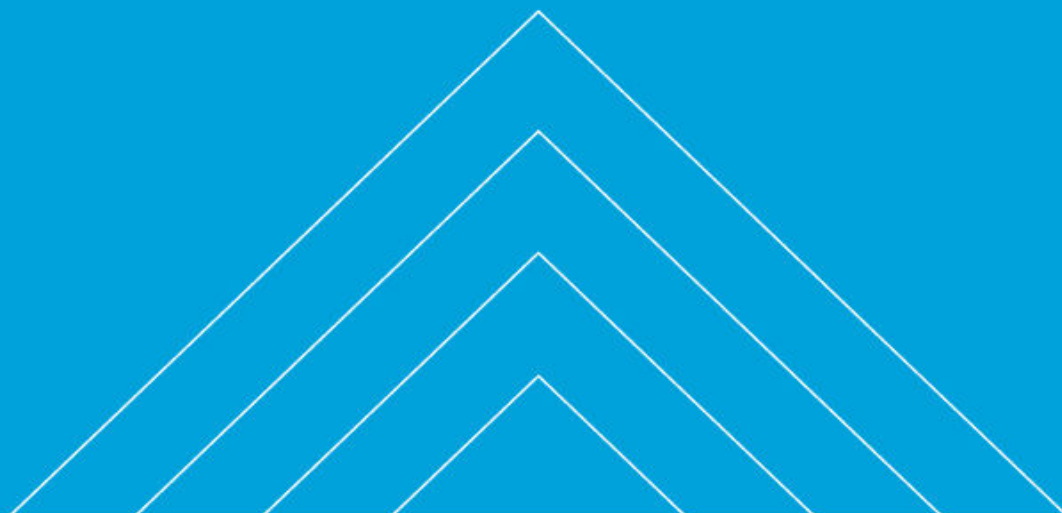
	3.7 Viability CIL Charging	<p>HBD x Factory Limited</p> <p>The viability challenges are reflected in the adopted CIL Charging Schedule, prepared by the Joint Authorities to support the JCS. This only has charges for residential development. It does not charge for commercial development, presumably because the viability work underpinning the Charging</p>	<p>See above comments at 3.6 concerning review of the viability report. INF 7 of the JCS states that "Where, having regard to the on- and / or off-site provision of infrastructure, there is concern relating to the viability of the development, an independent viability assessment, funded by the developer and in proportion with the scale, nature and / or context of the proposal, will be required to accompany planning</p>	<p>The NPPF states at para 58 (our emphasis added):</p> <p>"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether</p>	<p>The Applicant acknowledges that any s106 contributions sought towards the Scheme would need to be CIL compliant. Whilst it is the Applicant's position that the proposed s106 contributions would be compliant with the tests in Reg.122[2] of the CIL Regulations 2010 it is accepted that</p>	<p>Deadline 5 10 28/11/2024</p>
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Theme	Topic	Position of interested party	Applicant Response	Response by IP	Applicant Final Position	Status and date of latest Position
		<p>Schedule found that commercial development couldn't support CIL never mind significant J10 costs.</p>	<p><i>applications. Viability assessments will be undertaken in accordance with an agreed methodology and published in full prior to determination for all non-policy compliant schemes. Where necessary the JCS authorities will arrange for them to be independently appraised at the expense of the applicant."</i></p>	<p><u>particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force."</u></p> <p>The JCS was adopted in 2017. At that time, a J10 scheme was not known, nor was any funding for it available. The JCS explicitly states about J10:</p> <p><u>"At this stage, there is no certainty that this funding will be released and it is not therefore possible to anticipate any delivery within the JCS plan period; should funding become available, then the JCS authorities would consider a Strategic Allocation through a JCS Review."</u></p> <p>The DCO scheme has therefore come forward after the JCS was adopted, and contributions from developments have only been requested since the funding shortfall was revealed. The JCS is therefore arguably out of date (and it would be for the JCS Review to properly consider J10), and there has certainly been a change in circumstance since the JCS was adopted. This is why a viability assessment has been submitted with application 23/01875/OUT.</p> <p><u>Notwithstanding the question of whether contributions would be CIL compliant, it should also be recognised that a large and complex mixed-use development such as that proposed by 23/01875/OUT is required to contribute towards numerous infrastructure requirements such as affordable housing, education, libraries, SANG, BNG, sports facilities, open spaces, active travel, public transport etc, all of which must be given consideration in the viability assessment alongside potential contributions towards the DCO scheme. This is a heavy burden for development.</u></p>	<p><u>these are for the LPA to determine when considering any individual planning application. This determination includes whether or not the LPA is satisfied it would be appropriate for a contribution to be made, after taking account other requirements, representations from the various consultees, including the local highway authority, and any impact on the viability of the Scheme.</u></p>	

Theme	Topic	Position of interested party	Applicant Response	Response by IP	Applicant Final Position	Status and date of latest Position
	3.8 Funding gap - contributions	<p>HBD x Factory Limited</p> <p>Looking then at the principle of asking for contributions to fill a funding gap as a planning obligation. To do so has to meet three tests: a) is it necessary to make the development acceptable in planning terms; b) is it directly related to the development; and c) is it fairly and reasonably related in scale and kind to the development. In this context, we would question if the J10 works proposed are all required for development to progress at West Cheltenham. We believe that some of the development can come forward without J10 works and still have an acceptable impact on the highway network. Within the West Cheltenham allocation different parts will have varying impacts on J10, particularly as a bus gate proposed which prevents commercial and residential traffic from the southernmost parts directly accessing J10. All commercial traffic to the allocation will be coming via the A40/Telstar Way rather than down through the allocation from Old Gloucester Road, has this been considered within the modelling exercise undertaken? As you know we are in the early stages of a review of our traffic modelling with GCC and should use that to illustrate these points.</p>	<p>The Applicant is engaging with the developer to review the methodology and its compliance with the tests. Currently the use of dead weight and development dependent trips in the calculations accords with the principles of the tests, however it is recognised that individual sites will have site specific local road network harms at different times and the review of the methodology will try to better capture these issues.</p>	<p><u>We remain of the view that a significant part of the Southern Parcel (if not the entire Southern Parcel) can come forward in advance of the DCO scheme either within the baseline deadweight capacity, or in addition to the baseline where local mitigation as required is provided.</u></p>	<p>The Applicant acknowledges the position of HBD and that the recommended apportionment of any deadweight capacity recommended by the local highway authority will be for the relevant local planning authorities to determine outside of the DCO process.</p>	<p>Deadline 105 28/04/10/2024</p>
	3.9 Charging rationale	<p>HBD x Factory Limited</p> <p>The principle of basing the contributions on 'trip impact' is logical but given the significant dependence of the whole method on the trip input estimates, these will need to be agreed prior to the formal adoption of any method. Putting aside the viability argument on commercial development, if the trip generation assumption is the same as that we are discussing with your colleague Brian Walker, it is approximately twice that which our consultants suggest (measures to encourage public transport and the shift post covid to hybrid working). This has a significant impact and doesn't recognise the different/tidal nature of the trip distribution patterns means different development type may elicit different levels of impact.</p>	<p>Since submission of these representations, the applicant understands that GCC HDM have agreed a range of site specific trip rates, subject to those vision led approaches being supported by adequate sustainable transport measures. This work is still ongoing as part of the planning consultation process</p>			<p>Deadline 5 01/10/2024</p>
	3.10 Charging rationale	<p>HBD x Factory Limited</p> <p>The 'deadweight' capacity will need to be clarified, particularly what is assumed to comprise this figure and how it has been calculated. It does not appear like the deadweight has featured in the contribution</p>	<p>The for the respective sites was used to calculate the development dependent trips at Junction 10 and 11 of the M5. This methodology is currently under review in consultation with HBD.</p>			<p>Deadline 5 01/10/2024</p>

Theme	Topic	Position of interested party	Applicant Response	Response by IP	Applicant Final Position	Status and date of latest Position
		calculations and an understanding of the levels which have been identified is important.				
	3.11 Charging rationale	<p>HBD x Factory Limited</p> <p>The suitability of the strategic model as the only tool to be relied upon in deriving these figures must be evidenced. The trip assignment is a function of network stresses and constraints which influence how vehicles route within the transport network. This, in turn, is a function of the network calibration/validation and traffic forecasting processes. None of these will be perfect but given that this model is being used in isolation to justify a contribution in excess of £80million it is reasonable to expect that GCC and NH will be able to provide assurances that the model is fit for purpose and that the local network calibration and validation is sufficiently accurate that we can be confident in the outputs produced. We would request that the key reports (model development report, future year forecast report) are made available to allow us to establish the appropriateness of the model and the outputs.</p>	This methodology is currently under review in consultation with HBD.			Deadline-5 01/10/2024
	3.12 Other funding mechanisms	<p>HBD x Factory Limited</p> <p>Finally the funding requirements of Junction 10 were initially met by the Housing Infrastructure Fund ("HIF") and we understand that there is now an £81M+ shortfall. Is GCC looking at other funding mechanisms such as more HIF or Tax Increment Financing (TIF)?</p>	See 3.4 and 3.5 above.			Deadline-5 01/10/2024

Appendices



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