

M5 Junction 10 Improvements Scheme

Consents and Agreements Position Statement TR010063 - APP 3.3

Regulation 5 (2) (q)

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3.3 Consents and Agreements Position

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1. Introduction

1.1. Purpose of this document

- 1.1.1. This Consents and Agreements Position Statement sets out the Applicant, Gloucestershire County Council's (GCC) intended strategy for obtaining the consents and associated agreements needed to implement the M5 Junction 10 Improvements Scheme ("the Scheme").
- 1.1.2. The purpose and objective of this document is to identify what consents and agreements are expected to be needed for the Scheme outside of the Development Consent Order (DCO), and how these will be obtained in line with Regulation 5(2)(q) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (The APFP Regulations).
- 1.1.3. For further information on the Scheme, please refer to Environmental Statement (ES) Chapter 2 – The Scheme (application document TR010063/APP/6.2).

2. Strategy

2.1. Consents strategy

- 2.1.1. The DCO will allow the Scheme to be constructed and operated, however, there will be wider consents and licences which are required outside of the DCO, recognising the level of detail and information available at the point at which the application is submitted and consented.
- 2.1.2. The basis of the Applicant's consents strategy is therefore:
 - A DCO must be sought as the principal consent for the works under the Planning Act 2008 ("the Act") including to provide the necessary land acquisition and temporary possession powers.
 - The intent of the Act and Government policy is to enable development and construction-related consents to be included within the DCO; therefore, where possible and practicable, additional consents have been included within the DCO.
 - The Scheme benefits from the intent of the Act and Government policy, as most of the consents required for the construction of the Scheme will be in place at the point of the making of the DCO. This minimises the need for any further approvals before the works covered by the DCO can commence.
- 2.1.3. The Scheme has and will be developed based on strong collaboration between the key stakeholders, and any additional consents and agreements will be secured at key stages of project development as necessary. The progress on these items have been reported to the Examining Authority through Statements of Common Ground (SoCG) with the key statutory bodies, with a summary of the current situation reported in Section 3 of this document and at Appendix A.

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3. Consents and agreements

3.1. Consents

3.1.1. The principal consent for the Scheme will be a DCO. The DCO provides development consent for the works and enables land acquisition and temporary possession, along with many consents and powers to be dealt with at the same time.

3.1.2. However, the DCO application may need to be supplemented by other applications because:

- A specific consent cannot be contained in the DCO.
- A consenting authority declines to allow a consent to be contained within the DCO (where they have the power to do so).
- It is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.

3.1.3. This Consents and position Statement (CAPS) has been updated by the Applicant for submission at Deadline 10 in line with the Examination Timetable. Most of the consents and all the powers required have been included, or addressed, within the DCO as permitted by various provisions of the Act. These fall into the following categories:

- Authorisation of all permanent and temporary works.
- Compulsory acquisition of land and/or rights over land such as easements, restrictive covenants and the temporary possession of land.
- Consent to carry out street works and to stop up highways permanently or temporarily.
- Highways matters (including classification of roads; temporary stopping up and restriction of use of streets and private means of access).
- Traffic regulation matters (including speed limits, clearways and restrictions on use).
- Consent to stop and divert public and private rights of way.
- Consent to carry out tree works.
- Consent to remove hedgerows including any 'important hedgerows';
- Powers to carry out utility diversions (subject to protective provisions).
- Consent to obstruct ordinary watercourses.
- Consent to remove buried human remains.

3.1.4. Where consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 (a "Prescribed Consent") under section 150 of the Act, the relevant consenting body must agree to the inclusion of these consents within the DCO. Please see Appendix A for further details. The only prescribed consent that the Applicant is seeking to disapply is in relation to s23 Land Drainage Act 1991. The Applicant has obtained consent from LLFA to discharge this consent as can be seen in x doc [x].

3.1.5. The permits, consents and agreements that may need to be sought separately from the DCO are identified in Appendix A. The consents listed in Appendix A are largely dependent on finalisation of the detailed design, the detailed construction site set up and working methodologies, and discussions with the consenting authorities in light of the

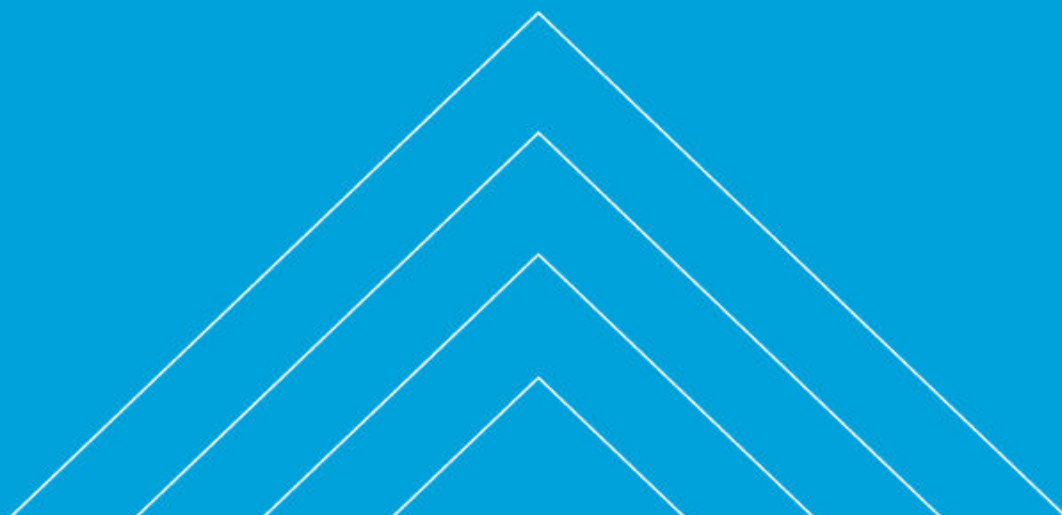
detailed design. The Applicant submitted a construction programme into the ExA in Applicant's Response to Issue Specific Hearing 4 (ISH4) Action Points (REP7-010) which provided details of the construction activities and programme and when required licences and consents are to be applied for.

- 3.1.6. Other forms of agreement are also likely to be required, including letters of no impediment from Natural England in relation to draft European Protected Species licences. The Applicant has obtained letters of no impediment and draft licences where required, as set out in Appendix A.
- 3.1.7. Paragraph 4.56 of the National Policy Statement for National Networks (NN NPS) states that the Secretary of State should not refuse development consent on the basis of regulated impacts unless there is good reason to believe that any relevant necessary operational pollution control permits, licences or other consents will not subsequently be granted. The Applicant unaware of any such reason.

3.2. Agreements

- 3.2.1. Agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.
- 3.2.2. A fundamental part of the DCO process is the preparation and agreement of SoCGs with a variety of relevant stakeholders to identify the matters on which parties agree and disagree. This helps narrow the focus for examining the application concerned and to make the examination process more efficient. SoCGs have been prepared with the following organisations:
- Host Authorities (Cheltenham Borough Council, Tewkesbury Borough Council and Gloucestershire County Council as statutory consultee).
 - National Highways.
 - Environment Agency.
 - Natural England.
 - Historic England.
 - Developers - North West Cheltenham.
 - Developers - West Cheltenham.
 - Developers - Safeguarded land north-west Cheltenham.
- 3.2.3. At this stage of the Examination, Deadline 10, an updated position with the above parties is recorded in the updated Statement of Commonality (Document Reference TR010063/APP/8.11) submitted at Deadline 10. Alongside the Statement of Commonality, final position SoCGs have been submitted at Deadline 10..
- 3.2.4. Other forms of agreement are also required alongside SoCGs, for example, legal agreements regulating land and works powers, undertakings, memoranda of understanding. A number of these have been and continue to be progressed by the Applicant, for example:
- Agreements with statutory undertakers where these are required in addition to the protective provisions within the DCO.
 - If needed, where mitigation measures are proposed outside of the DCO boundary (e.g., discretionary noise insulation Scheme for certain properties affected by operational changes to the local road network), these would be agreed with individuals, businesses and any other relevant receptors to provide the appropriate mitigation.

Appendices



Appendix A. Consents and agreements table

A.1. Consents and agreements that may be required separately to the DCO

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
Nature conservation	Badgers – A licence under section 10 of the Protection of Badgers Act 1992	Natural England	May be required in relation to the disturbance and destruction of known badger setts within the Order Limits prior to and during construction of the Scheme. To ensure badgers are not disturbed and ensure legal compliance with the Protection of Badgers Act 1992.	Engagement with Natural England is ongoing regarding the potential impacts of the Scheme on badgers and necessary mitigation. Meetings are being arranged with Natural England to discuss the detailed design and survey requirements for the final licence. A draft licence was submitted to Natural England and a letter of no impediment (LoNI) was received from Natural England on 30 March 2023. Details are confirmed in item 7.15 of the Statement of Common Ground (SoCG) with Natural England (TR010063/APP/8.5), and a copy of the LoNI for badgers is included in Appendix A of the SoCG. Badger bait marking surveys took place October / November 2024 to inform the final licence. A final licence will be formally submitted following finalisation of the construction design and schedule, and once the DCO has been granted.	The Applicant is not seeking to disapply this in the draft DCO.
	Bats – European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017; section	Natural England	Required in relation to the disturbance and destruction of known bat roosts within the Order Limits prior to and	Engagement with Natural England is ongoing regarding the potential impacts of the Scheme on bats and necessary mitigation. Meetings are being arranged with Natural England to discuss the	The Applicant is not seeking to disapply this in the draft DCO.

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
	16 of the Wildlife and Countryside Act 1981		<p>during construction of the Scheme.</p> <p>To comply with conservation legislation and protect roosting bat species.</p>	<p>detailed design and survey requirements for the final licence.</p> <p>A draft Protected Species licence was submitted to Natural England and a letter of no impediment was received from Natural England on 4 March 2024. Details are confirmed in item 7.26 of the SoCG with Natural England (TR010063/APP/8.5), and a copy of the LoNI for bats is included in Appendix D of the SoCG.. A final Protected Species Licence will be formally submitted following finalisation of the construction design and schedule, and once the DCO has been granted.</p>	
	Great Crested Newts – Conservation of Habitats and Species Regulations 2017; a licence under section 16 of the Wildlife and Countryside Act 1981	Natural England	Will be required in relation to the disturbance or removal/translocation of great crested newts and damage or destruction of great crested newt habitat within the Order Limits prior to and during construction of the Scheme.	Managed through a commitment to the District Licensing Scheme for great crested newts, which is run by NatureSpace in Gloucestershire. NatureSpace have confirmed that the Scheme can make use of District Licensing provided development consent is granted and certain conditions are met and included in the Landscape and Ecological Management Plan (LEMP). Further detail concerning the proposal to use the District Licensing Scheme for great crested newts is included within the District Licence Report [APP - 9.51]. The report sets out the costs, terms and conditions of the scheme. The required conditions have been included in the LEMP (1st	The Applicant is not seeking to disapply this in the draft DCO.

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
				<p>iteration) [AS-035] and are achievable by the Scheme.</p> <p>The use of the District Licensing Scheme for great crested newts was detailed by the Applicant in response to ExA 1st Written Question ref. 3.0.5 [REP3-043]. The Applicant is not aware that Natural England has any concerns with this approach.</p>	
	<p>Dormice – Conservation of Habitats and Species Regulations 2017; a licence under section 16 of the Wildlife and Countryside Act 1981</p>	<p>Natural England</p>	<p>Will be required in relation to the disturbance or removal/translocation of dormouse within the Order Limits prior to and during construction of the Scheme.</p> <p>To ensure dormouse are not disturbed and ensure legal compliance with the Wildlife and Countryside Act 1981.</p>	<p>Engagement with Natural England is ongoing regarding the potential impacts of the Scheme on dormice and necessary mitigation. Meetings are being arranged with Natural England to discuss the detailed design and survey requirements for the final licence.</p> <p>A draft Protected Species licence was submitted to Natural England and a letter of no impediment was received from Natural England on 28 February 2023. This was updated on 20 September 2024 following further discussion with NE on hedgerow ref. H48. Details are confirmed in item 7.16 of the Statement of Common Ground (SoCG) with Natural England (TR010063/APP/8.5), and a copy of the LoNI for dormice is included in Appendix B of the SoCG.</p> <p>A final Protected Species Licence will be formally submitted following finalisation of the construction design and schedule, and once the DCO has been granted.</p>	

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
	Translocation of fish – Authorisation to translocate fish, under section 27A exception permit under The Salmon and Freshwater Fisheries Act 1975 (Form FR2)	Environment Agency	Required for authorisation to use fishing instruments other than rod and line in order to translocate fish out of the working area [for activities within the River Chelt or Leigh Brook].	Engagement with Environment Agency is ongoing regarding the potential impacts of the Scheme on fish and necessary mitigation. Meetings are being arranged with Environment Agency to discuss the detailed design proposals and methodology for the River Chelt realignment and channel diversions. Ongoing engagement with the Environment Agency is detailed in item B23 of the REAC (TR010063/APP/7.4).	The Applicant is not seeking to disapply section 27A in the draft DCO.
Water	Water Discharge Activities – Permit to discharge to surface water and/or groundwater under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Required following treatment of waters arising from construction activity or for the discharge of treated contaminated waters to ground, via re-injection (or possible soakaway) or a watercourse.	Piezometers have been installed to facilitate groundwater monitoring over winter 2024 / 2025, in order to calculate groundwater infiltration rates during detailed design. The groundwater infiltration rates and Applicant's construction methodology / sequencing will determine the quantity of water to be removed from the works area and subsequently discharged elsewhere within the Order Limits to facilitate construction works. This will determine the requirement for a discharge permit.	The Applicant is not seeking to disapply this consent in the draft DCO.
	Water Abstraction Licence – Abstraction of water under sections 24 and 25 of the Water Resources Act 1991	Environment Agency	Required for de-watering operations on site during construction.	Piezometers have been installed to facilitate groundwater monitoring over winter 2024 / 2025, in order to calculate groundwater infiltration rates during detailed design. The groundwater infiltration rates and Applicant's construction methodology /	The Applicant is not seeking to disapply this consent in the draft DCO.

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				sequencing will determine the quantity of water to be removed from the works area to facilitate construction works. This will determine the requirement for a water abstraction licence.	
	Flood Risk Activity Permit (FRAP) – Consent or approval for the carrying out of works required under any relevant bylaws made under the Water Resources Act 1991	Environment Agency	Required in the event that any relevant byelaws require consent or approval for the authorised development.	The Applicant has engaged with the EA on its preliminary design and flood risk assessment. The Applicant has engaged an environmental specialist to commence drafting the FRAPs for the following works: <ul style="list-style-type: none"> • Installing a clear span bridge (temporary and permanent) • Temporary storage on a flood plain of a main river • Temporary diversion of a main river • Temporary scaffolding affecting up to 20m of a main river (for the mammal ledge in the M5 culvert) • Excavating a wetland or pond in a main river floodplain Site Specific FRAPs are dependent on detailed design. However, engagement with the Environment Agency to date on the FRA included in the application has not identified any concerns that would imply an issue in obtaining FRAPs when required.	The Applicant is not seeking to disapply this consent in the draft DCO.
	Ordinary Watercourse Consent	Gloucestershire County Council as the lead	Required for all works over, under or near ordinary watercourses. Required for all	The LLFA have provided their consent to the disapplication of this consent, this can be found in Appendix B of the	This is a Prescribed Consent which the Applicant is seeking

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
	– Ordinary Watercourse Land Drainage Consent: under section 23 of The Land Drainage Act 1991	local flood authority	culvert or structures likely to affect flow in ordinary watercourses. This would include all ordinary watercourses crossed by the Scheme.	Applicant's Written Submission of Oral Case for Issue Specific Hearing 3 (REP4-037).	to disapply in the draft DCO.
	Trade Effluent Consent – under the Water Industry Act 1991	Local water undertaker	For the purposes of discharging trade effluent from welfare facilities.	The requirement for a trade effluent consent will be determined based on the availability of a foul sewer within the Order Limits for the site compound. The Applicant is in the process of designing the site compound and associated temporary infrastructure. The requirement for a Trade Effluent Consent will be discussed with the relevant local water undertaker, should it be identified that consent will be required during the construction phase.	The Applicant is not seeking to disapply this consent in the draft DCO.
Materials and Waste	Waste – Management and disposal of waste under the Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Required to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment.	The The Applicant is exploring potential local sources of bulk fill material, for example construction projects in the area. If this opportunity materialises, a Waste licence would be required for the use of this material. The Applicant has engaged an environmental specialist to review the requirement for and commence drafting the Waste permits. The required permits will be sought by the Applicant should it be identified that they are required.	The Applicant is not seeking to disapply this consent in the draft DCO.
	Materials – Pollution Prevention and Control Act 1999, Environmental	Environment Agency	A mobile plant permit may be required for the treatment of soils and contaminated soils or	The Applicant is completing a cost benefit assessment for treating unsuitable site arisings for use in	The Applicant is not seeking to disapply

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
	Permitting (England and Wales) Regulations 2016		for the crushing grinding or size reduction, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral: Screening the product	earthworks embankments, and for crushing materials such as brick or concrete arising from demolition activities for use as aggregate. The requirement for a mobile plant licence will be determined based on the outcome of this assessment and discussed with the EA accordingly.	this in the draft DCO.
	Asbestos – Control of Asbestos Regulations 2012	HSE	Required for any works where asbestos is present.	The presence of asbestos has been identified in some of the buildings and structures to be demolished. Asbestos demolition surveys have been procured and are being completed at through Winter 2024 / 2025. A licence will be sought by the Applicant prior to demolition works taking place.	The Applicant is not seeking to disapply this in the draft DCO.
	Hazardous Substances Consent	Relevant local authority	Required when specified hazardous substances are stored or used at or above specified controlled quantities. This includes hazardous substances stored on, over or under land.	The Applicant will liaise with the undertaker of the relevant apparatus where any works are undertaken in relation to gas pipelines to ensure that any required consents are put in place.	The Applicant is not seeking to disapply this in the draft DCO
Building Demolition	Demolition – Section 80 notice under the Building Act 1984	Local Authority Notice	Written notice is required to be submitted to the Local Authority in relation to the demolition of buildings (and is applicable, an occupier of any adjacent building, public gas supplier and public electricity supplier) setting out the building and the related demolition works.	Discussions have taken place with the Local Authorities regarding the locations where demolition is required. The Applicant is in the process of developing the programme and methodology for demolition activities. Notice of demolition will be provided post-DCO consent.	The Applicant is seeking to disapply section 80 in the draft DCO.

Issue	Consent / Licence / Agreement & Legislation	Relevant authority	Description	Status	Relationship to the Draft DCO
Noise	Section 61 agreement – under Section 61 of the Control of Pollution Act 1974	Relevant local authority	Required to avoid significant construction noise and vibration effects.	An application for consent will be made to the relevant local authority at least 28 days before the relevant work is due to start, or earlier where reasonably practicable.	The Applicant is not seeking to disapply this in the draft DCO.

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