

M5 Junction 10 Improvements Scheme

**Applicants response to Interested Parties Deadline 9a
and Deadline 10 submissions**

Rules 8 (k)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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

Applicant Response to Interested Parties Deadline 9a and Deadline 10 submissions

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1. Introduction

- 1.1.1. This document (TR010063/APP/9.100) provides the Applicant's response to submissions made by interested parties at Deadline 9a and Deadline 10 where considered a response is required including:
- REP9A-008 – Joint Councils;
 - REP9A-009 – Mr Neil Hadley;
 - REP10-115 – Andrew Bower on behalf of Mrs Bary Bruton and Ms Elizabeth Counsell; and
 - REP10-111 – Joint Councils.
- 1.1.2. The Applicant acknowledges that Deadline 10 submissions were made by National Highways (REP10-114) and Environment Agency (REP10-110), however, the Applicant considers a response is not required.
- 1.1.3. Where issues raised within the IP's response have been dealt with previously by the Applicant within one of the application or other examination documents, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4. In order to assist the Examining Authority, the Applicant has not commented on every point made by Interested Parties, including for example statements which are matters of fact and those which it is unnecessary for the Applicant to respond to. However, and for the avoidance of doubt, where the Applicant has chosen not to comment on matters contained in the response, this should not be taken to be an indication that the Applicant agrees with the point or comment raised or opinion expressed.

2. REP9A-008 – Joint Councils


Ref	Issue	Applicant Response
008-01	<p>ISH5 Action Point 8</p> <p>Joint Councils, through Tewkesbury Borough Councils Conservation Officer, confirmed to the Applicant that a total of 8 properties have been identified as non-designated heritage asses (NDHA).</p> <p>3 properties were identified at Deadline 7 submissions “Joint Councils Written Submission of case put orally at the Hearings held the week commencing 14 October 2024 [REP7-018]. The relevant criteria as to why these 3 properties should be considered as NDHA was provided to the Applicant on the 7th November 2024.</p> <p>A further 5 additional properties were subsequently identified in our Deadline 9 submission “Response to the Examining Authority’s Third Written Questions [REP9-014]. The relevant criteria as to why these 5 properties should be considered as NDHA was provided to the Applicant on the 21st November 2024. This information will allow the Applicant to update Chapter 11 (Cultural Heritage) of the Environmental Statement in time for Deadline 10.</p>	<p>The Applicant provided an update to Environmental Statement (ES) Chapter 11 – Cultural Heritage (REP10-049) at Deadline 10. This update incorporated the additional 5 NDHA properties which did not alter the overall conclusions of Heritage assessment.</p>
008-02	<p>The Joint Councils intend to submit a Closing Submission and a written summary of oral submissions made at ISH5 at D10. The Joint Councils are also of the understanding that the Applicant will submit a final SoCG Joint Councils to Examination at D10.</p> <p>The Joint Councils would like to reiterate their position in support of the Scheme in principle and will continue the discussions of outstanding matters with the Applicant during the remainder of the Examination to work towards agreement wherever possible.</p>	<p>The Applicant submitted a final SoCG with the Joint Councils (REP10-072) at Deadline 10, along with the List of matters not agreed where an SoCG could not be finalised document (REP10-107)</p>

3. REP9A-009 – Mr Neil Hadley

Ref	Issue	Applicant Response
	Context	
	At every meeting I have had with the Applicant and indeed at every Inquiry Hearing I have spoken, I have consistently requested a round about instead of the proposed signale junction on the Old Gloucester Road (B4634). A signal junction will make access for development of my land impossible as GCC do not want a series of junctions there. The effect of not having an access for development onto the B4634 would effectively discriminate and sterilise my site which is within the Strategic Allocation.	The Applicant has responded to Mr Hadley's concerns regarding the design of the Scheme in the following responses REP1-043, REP2-008, REP4-036, REP5-029, and REP7-009. The design of the Scheme does not prevent development access to the land owned by Mr Hadley off Hayden Lane. The Applicant is clear that the realisation of the allocation at site A7 is contingent on the highways improvement being delivered by the Scheme. This has been outlined within the submitted Planning Statement (REP10-063)
	There is no equalisation provision within the West Cheltenham Strategic Allocation and therefore no formal access agreement between landowners exists. However St. Modwens/MLPL have an agreed access arrangements with GCC into their site, as clearly shown on the drawings. I have no arrangement to connect to this access, across St. Modwen/MLPL land.	The Applicant has clearly set out to Mr Hadley throughout engagement (before and during examination) that if a planning application were progressed demonstrating the intended development, access and egress this would aid in design consideration. No detail has been forthcoming and as such it would be inappropriate for the Applicant to pre-determine any future development of the land and any associated planning application.
	This proposed GCC access not only materially affects my site, it severely compromises it as GCC will not allow a further access on my northern boundary close to the proposed signalled junction.	Regarding the impact of the Scheme on the current agricultural use, the size of equipment being suggested by Mr Hadley would appear to be impracticable and unrealistic for the circa 5 acres of ridge and furrow permanent pasture which forms the agricultural land. This would likely yield a maximum of 25 round bales of hay per annum. The size of agricultural equipment purported by Mr Hadley is the largest available for use in the UK and is disproportionate to the land and type of agricultural operations which could be undertaken on the land. In addition, the Applicant does not believe that such vehicles could access via the existing 3.1-metre-wide existing gate and culvert from the B4634 which is significantly overgrown as shown in the
	As it is, my existing agricultural access is going to become a major highway safety issue, as the size of machinery we use cannot be safely accommodated when crossing the road. The Applicant has tried to justify the agricultural access improvements, but as the swept path analysis drawings illustrate, the machinery illustrated is much smaller than we use and tractors with heir trailers cannot turn at right angles into stationary/moving traffic. Therefore the proposal simply does not work at a practical/safety level.	

Ref	Issue	Applicant Response
	<p>Therefore my wife and myself still formally and strongly object to the latter section of the proposed spur road, between the northern side of the B4634 Old Gloucester Road into part of the West Cheltenham Strategic Allocation.</p>	<p>photo below. The observation from site is that all access is currently secured from Hayden Lane and this will be unchanged by the Scheme.</p>
	<p>The Solution</p>	<p>Mr Hadley has confirmed, during engagement with the Applicant and at CAH2, that his pre-application enquiry related to 30 residential units for which he sought advice in on a proposed an access from Hayden Lane. During meetings on the 5 September 2024, the Applicant questioned the limitation on the number of units purported and consulted with GCC HDM to establish that an access from Hayden Lane would not limit the number of units to 30 and that 50 units could be achieved in the same vein. This was confirmed by email on the 14 October 2024 to Mr Hadley along with the need for Mr Hadley to formalise this feedback with GCC HDM. The Applicant is clear that an agreement was never proposed and has responded in writing as was agreed during meetings on the 8 October 2024. The Applicant, therefore, understands that pre-application advice has yet to be sought by Mr Hadley in relation to a c.50 residential unit development.</p>
009-01	<p>The obvious solution to gaining access into my site is to create an access off Hayden Lane. During the course of the Inquiry basic negotiations and correspondence have taken place with Highways Development Management regarding pre-application matters.</p> <p>On the 7th June a note was issued stating that ‘up to 30 Residential Units’ could be considered and to pursue a planning application.</p> <p>As this number of units is below what the site could comfortably accommodate a request was made to Carter Jonas (the Applicants Agent) for an increase in unit numbers.</p>	<p>Further to the advice provided by GCC HDM the Applicant has established the principle regarding the suitability of access from Hayden Lane with Mr Hadley but has consistently set out that it is not for the Applicant to progress the design or consenting for a development access on his behalf. Whilst principally it would be inappropriate for the Applicant to pre-determine a future application for the land, Mr Hadley has not provided any clear masterplan or detail for the development being sought in either a no-scheme or scheme world.</p>
009-02	<p>On 14th October we received an email stating the following line, “We also discussed the pre app which Mr Hadley had from GCC HDM which he had concerns over the number of units which could be developed on the site, we have now had comments from them saying, that access off Haydon Lane would not restrict the number of units which could be developed on the site.”</p>	<p>The Applicant will continue to progress discussions regarding the voluntary acquisition of land required for the Scheme but the Applicant considers that its position on not designing the Scheme to cater for a development without individual planning status is appropriate. The Applicant is satisfied that the alteration of access</p>
009-03	<p>While this line in its self is helpful, it does not give the required detail (or flesh on the bones) on which to make a robust planning application.</p> <p>As GCC HDM are the highway authority I would have thought that it would be the simplest thing to supply the following:</p> <ol style="list-style-type: none"> 1) GCC HDM required access specification for a residential development access off Hayden Lane for an unrestricted number of houses. 2) Agreement that a planning application only needs to confirm that connection and access to green transport be made available. 	

Ref	Issue	Applicant Response
	3) Confirmation that there would be no further requirement for traffic surveys and the like at the planning application stage. 4) Agreed wording so that either sides lawyers can produce the required agreement before a planning application is made.	from the Old Gloucester Road does not cause a safety issue. The Applicant has continued to justify the reason why a roundabout would not be possible in this location. Lastly, the Applicant remains of the view that the Scheme does not impact that continued agricultural use of the land.
009-04	The four above points would then put me I the same clear access position as St. Modwen/MLPL.	
009-05	I was told by Carter Jonas, at a meeting on 18 September and several times since, that a draft agreement with GCC would shortly be provided. This was to cover an agreement in principle regarding an access into my land from Hayden Lane for the purposes of residential development and that this would state that there would be no reduction in the development capacity of the site with an access from Hayden Lane as compared to Old Gloucester Road. This was to address my concern that the proposed Scheme will make access for development into my site impossible and would sterilise the site if an equivalent access was not available from Hayden Lane.	
009-06	Most alarmingly I have now been told by Carter Jonas that such an agreement will not be possible because this is not something that can be provided for by the DCO. I am well aware of this. No one has ever suggested that this matter should be catered for in the DCO. However, an agreement can be entered into by GCC.	
009-07	Although the land to be accessed from Hayden Lane is not within the red line boundary of the DCO, it would be perfectly acceptable and normal for a promoting authority to enter into agreements covering land outside of the DCO boundary because land close to the boundary is often affected by the proposed development, as in this case significantly.	

Ref	Issue	Applicant Response
009-08	I am very disappointed/shocked that GCC suggested that an agreement can be reached and has now withdrawn this at such a late stage, shortly before the close of the Examination.	 <p data-bbox="1252 1238 2056 1295">Photo of existing access off the B4634 (Old Gloucester Road) taken on the 18 October 2024</p>
009-09	I would therefore like to request that the Panel directly asks GCC to progress an agreement and should importantly report back to the Panel regarding progress. It seems to me that this may be the only way to ensure that GCC provides the agreement that was promised in September.	
009-10	When the applicant provides the information and agreement is reached on the four highlighted 1-4 items above I will then we be able to: <ul style="list-style-type: none"> a) withdraw our formal objection b) withdraw any possible ECHR action c) Prevent any substantial claim by me on the public purse for being disadvantaged, sterilisation of the site, etc. 	
009-11	I sincerely hope the Panel will be able to secure the required basic information and simple agreement for both the Applicant and myself to move forward in agreement.	

4. REP10-115 – Andrew Bower on behalf of Mrs Mary Bruton and Ms Elizabeth Counsell

Ref	Issue	Applicant Response
1. Proposed shared farm access track		
	<p>The swept path analysis provided included agricultural machinery that is no longer made; current machinery such as trailers and combine harvesters are larger and it is important that we have confidence that they can not only navigate the access track bends, but also safely make the turn in to and out from my clients' land, when under heavy and high loads, without having to cross the adjoining land owned by the Applicant. One of the reasons for this is that my clients' must be able to keep the track level for the stability of bales of straw, which are at their most danger of toppling when a tight turn is being made over uneven ground. Updated drawings have been requested and chased but are yet to be received.</p>	<p>The Applicant has provided a range of plans to the Interested Party during examination which demonstrate the suitability of the access provided for the Scheme for agricultural vehicles. The specific make and model of the vehicle used in the analysis is not determinative to the validity of the assessment. The size, characteristics and manoeuvrability of the vehicles is the key and, in the Applicant's opinion, the performance of the vehicles in the swept path analysis is representative of the large agricultural vehicles that has been referenced by the Interested Party. For the avoidance of doubt, the attached drawings were issued to Mr Bower on the 29 October 2024 and demonstrates the suitability of the private means of access up to the field gate. Previous drawings were issued to the Interested Party on the 21 June 2024. It is the Applicant's view that the drawings issued on the 29 October addressed these concerns. The Applicant has confirmed the private means of access will be constructed to an appropriate standard which incorporates best practice methods of construction and will be formed of compacted stone to ensure a level and stable surface. The Applicant maintains that the design of the access is safe and suitable for the use of the land.</p>

Ref	Issue	Applicant Response
		The Applicant will continue to liaise with the Interested Party through the detailed design of the Scheme to ensure they are kept informed.
	I again repeat my belief that it is within the Applicant's ability to grant an equivalent type and unencumbered form of straight access from the A4019, in line with an early drawing proposed by them and then withdrawn without reason.	The Applicant appreciates that it might have been within its ability to provide the access requested by the Interested Party. The Applicant has, however, been clear regarding the reasons for its decision not to provide the requested access. The Applicant continues to maintain that the access proposed does offer a position of equivalence and that the access proposed is not necessary to provide such equivalence.
	At yesterday's meeting the Applicant's Asset Management & Property Services team were represented by Neil Corbett. Mr Corbett was not prepared to agree to provide a replacement access of any form across the Applicant's retained land at this stage, but merely offered to consider any proposal that was put in writing. Mr Corbett would not discuss even the broadest of terms in an attempt to move matters forward before the final Deadline.	The Applicant considers that it appears that the Interested Party sought, in the referenced meeting, to achieve an access delivered by the Scheme which is suitable to service a desired future residential development of the safeguarded land. There is no support in planning policy for this. The Applicant has and will continue to negotiate to acquire the land required for the Scheme. The Applicant appreciates that there remain extant issues of contention between the parties but this fact does not mean that the Applicant has not engaged with the Interested Party in the spirit of negotiation. The Applicant is not required to agree to all terms requested by an Interested Party.
	I have been trying to negotiate with the Applicant for about four years and specifically been asking for a meeting with AMPS since a site meeting with their agent in April 2023; given the DCO Inquiry is about to close this does not seem to be negotiating in the spirit or method required under the DCO legislation. Nothing new was proposed by me at our meeting yesterday and the offers had all been discussed several times with Carter Jonas during 2023 and 2024.	The Applicant has passed on the Interested Party's requests previously and will pass on the most recent request of the Interested Party to AMPS.

5. REP10-111, REP10-112 and REP10-113 – Joint Councils

Ref	Issue	Applicant Response
Joint Councils Cover Letter		
	<p>Environmental Statement Chapter 11: Cultural Heritage [REP9-002]</p> <p>The Joint Councils have invited the County Archaeologist to review [REP9-002]. The County Archaeologist is broadly satisfied with the updates made by the Applicant to [REP9-002]. There are only three minor comments from the County Archaeologist which the Applicant is suggested to address. These have been forwarded to the Applicant for consideration.</p>	<p>The three comments provided by the Joint Councils are:</p> <p>p.11 'National Planning Policy Framework Paragraph 139' - incorrect paragraph number quoted.</p> <p>Section 11.4.2. requires updating to latest S&G's: https://www.archaeologists.net/codes/cifa.</p> <p>Section 11.8.25 states, 'There is the potential for remains of similar national significance within the Order Limits', whereas Section 11.11.4. only mentions archaeological remains of low to medium importance – potential for 'national' should also be referenced in this section.</p> <p>The Applicant has reviewed these comments and notes that none of them have a material effect on the assessment reported in ES Chapter 11 (Cultural Heritage) [REP10-049].</p> <p>The ES Chapter 11 that was submitted at Deadline 10 [REP10-049] has not been updated.</p>
	<p>Environmental Management Plan Annex B17 – River Realignment and Channel Diversion Management Plan [REP9-006]</p> <p>The Joint Councils have reviewed [REP9-006]. The Joint Councils' flood risk specialist would like to raise the following comment on the Management Plan:</p> <p><i>"It is not clear whether any crossings of the temporary diversion channel are anticipated to be required to facilitate construction access. Can this be clarified</i></p>	<p>A temporary bridge crossing will be required in the vicinity of the channel diversion to allow for construction access. At the preliminary stage of design, the specifications for the crossing are unknown. However, the River Realignment and Channel Diversion Management Plan [REP9-006] will be updated at the next stage of design to ensure all appropriate mitigation is incorporated. This will include mitigation for hydromorphological, ecological and hydraulic capacity- associated with the temporary crossing. This will be</p>

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	<p><i>please? If there is a need for temporary crossings then they need to be designed to meet hydromorphological, hydroecological and hydraulic capacity criteria.”</i></p> <p>The Joint Councils’ geomorphological specialists have provided five comments which we are suggesting are addressed in the next iteration of the Management Plan. These have been forwarded to the Applicant for consideration. The Joint Councils will continue to engage with the Applicant in the detailed design stage of the Scheme as consultees under the provisions within the DCO.</p>	<p>secured through the consenting process and the requirement for a Flood Risk Activity Permit.</p>
	<p>Environmental Statement Appendix 11.5: Archaeological Geophysical Survey of Land around J10 of M5 – September-October 2024 First Interim Report [REP9-007]</p> <p>The Joint Councils have received [REP9-007] from the Applicant prior to their submission at D9 and have invited the County Archaeologist to review. The County Archaeologist only raised a minor typographical comment and this has been passed to the Applicant to address. The County Archaeologist also requested the Applicant to provide an update on the progress with the remaining areas, which should be due by November 2024, and their reporting.</p>	<p>The Applicant has reviewed the Appendix 11.5 and confirms that there is no typographical error to correct. The comment raised by the County Archaeologist on this related to the relative position of the Withybridge Mill to the survey areas presented in the Appendix 11.5 report. Withybridge Mill (on Withybridge Lane) is located to the west of Area 3F (the Link Road). Area 2F is to the west of the M5.</p> <p>The Applicant also notes that reference to 2F or 3F is not material to the assessment of cultural heritage undertaken in the ES.</p> <p>ES Appendix 11.5 that was submitted at Deadline 9 [REP9-007] has not been updated.</p>
	<p>Updates on Environmental Management Plans Annex B8 – Archaeological Management Plan (AMP)</p> <p>The Joint Councils are aware that the Applicant intends to submit a revised first iteration of the AMP at D10. The Joint Councils have received a draft AMP from the Applicant prior to their submission at D10 and have invited the County Archaeologist to review. A meeting was held between the Joint Councils and the Applicant on 25 November 2024 to go through the County Archaeologist’s comments. All comments have been addressed and the County Archaeologist is broadly satisfied with the revised first iteration of the AMP. The County Archaeologist will continue to engage with the Applicant in the detailed design stage of the Scheme as a consultee.</p>	<p>The Applicant confirms that a revised 1st iteration of the AMP was submitted at Deadline 10.</p>

Ref	Issue	Applicant Response
Joint Councils Written Submission of case put orally at the Hearings on 20 November 2024		
4.4 Agenda item 9 – ExA’s third written questions (ExQ3)		
	<p>(iv) Heritage and the position with respect to Non-Designated Heritage Assets</p> <p>4.4.6 The ExA requested the Joint Councils to confirm that there were no other Non-Designated Heritage Assets that had not been identified. AP stated that the Joint Councils could not confirm this position. The Conservation Officer at TBC has been unable to undertake a full site survey of the proposed development area. However, after undertaking a desktop exercise review utilising the Scheme’s General Arrangement drawings, five further properties have been identified and these additional Assets have been passed over to the Applicant. AP added the Joint Councils understand that the Applicant have also provided a response to question 9.0.1 of ExQ3 [REP9-011].</p> <p>4.4.7 The ExA then queried the Applicant how they are progressing in light of the new information provided by the Joint Councils. The Applicant explained they request further information from the Joint Councils on the reason for the categorisation or consideration of the five properties as NonDesignated Heritage Assets. The Applicant could update ES Chapter 11 (Cultural Heritage) accordingly with this further information. The ExA questioned what reassurance the ExA can have from the Joint Councils that they are going to provide that information in a timely manner. AP stated that the Joint Councils will provide a response in writing following from ISH5. AP also explained that the information of the five properties is not in the public domain because of limited availability of resources at TBC. The ExA requested the Joint Councils to have conversations with the relevant personnel at TBC as promptly as possible to confirm the list of specific properties to be provided to the Applicant and reasons why they are considered to be Non-Designated Heritage Assets. This action is captured in point 8 of the list of Action Points arising from ISH5 [EV11-002].</p>	<p>To confirm, the Applicant received the information from the Joint Councils on the five further non-designated built heritage assets, and the basis for their categorisation. The Applicant updated the ES Chapter 11 and ES Appendices 11.1 and 11.2 to include these receptors, and submitted these documents at Deadline 10.</p>

Ref	Issue	Applicant Response
	4.4.8 Following from ISH5, the Joint Councils have provided a response to ISH5 Action Point item 8. This is presented in the Joint Councils' submission at Deadline 9A [REP9A-008] and paragraph 4.5.1 of this written submission.	
4.5 The Joint Councils' responses following ISH5		
	4.5.2 The Joint Councils' responses to the Action Points arising from ISH5 Action Point 8 – The Joint Councils to confirm list of specific properties to be provided to the Applicant and reasons why they are considered to be non-designated heritage assets? 4.5.1 As a follow-up action of the discussion under agenda item 9(iv) (see paragraph 4.4.7), the Joint Councils have provided a response to Action Point 8 in their Deadline 9A submission referenced REP9A-008. The Joint Councils have confirmed that the relevant criteria as to why the additionally identified properties should be considered as Non-Designated Heritage Assets has been provided to the Applicant. This information will allow the Applicant to update the ES Chapter 11 (Cultural Heritage) in time for Deadline 10.	The Applicant submitted an updated ES Chapter 11 (Cultural Heritage) (REP10-049) and ES Appendices 11.1 (REP10-054) and 11.2 (REP9A-002), at Deadlines 10 and 9A respectively, that incorporated the five additional NDHA. This inclusion did not alter the conclusions of the assessment.
Joint Councils Closing Submission		
	The Joint Councils have agreed a final Statement of Common Ground (SoCG) with the Applicant which will be submitted by the Applicant at Deadline 10 (D10). The SoCG shows the progression of discussions between the Joint Councils and the Applicant on matters within the SoCG. The following provides a summary of the principle matters that have been agreed or remain outstanding.	The Applicant submitted a final SoCG with the Joint Councils (REP10-072) at Deadline 10.
	The Joint Councils and the Applicant have agreed the majority of the matters within the SoCG as set out in Table 4-1 of Section 4 of the final SoCG. A number of agreed matters require follow-up actions from both parties at the detailed design stage. These have been listed in paragraph 4.1.2 of the SoCG.	The Applicant submitted a final SoCG with the Joint Councils (REP10-072) at Deadline 10.

AtkinsRéalis

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

Tel: +44 (0) 8000 514 514