



M5 JUNCTION 10 IMPROVEMENTS SCHEME – TR010063

Section 51 advice regarding draft application documents submitted by Gloucestershire County Council

On 18 November 2022, Gloucestershire County Council submitted the following draft documents for review by the Planning Inspectorate as part of its Pre-application Service¹:

1. Draft Introduction to the Application
2. Draft Application Form
3. Draft Development Consent Order
4. Draft Explanatory Memorandum
5. Draft Consultation Report
6. Draft Environmental Statement (Chapters 1 – 4)
7. Draft Environmental Statement Appendix 1.3
8. Draft Environmental Statement Appendix 7.13
9. Draft Environmental Statement Appendix 7.14
10. Draft Planning Statement
11. Draft Book of Reference
12. Draft Plans

The advice recorded in the table below relates solely to matters raised upon the Planning Inspectorate's review of the draft application documents listed above. The advice is limited by the maturity of the documentation provided by the Applicant and the time available for consideration and is raised without prejudice to the acceptance decision or the final decision about whether development consent should be granted.

¹ See <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>



Draft Introduction to the Application		
Ref No.	Paragraph/Section	Comment/Question
1.	2.1.3	What does the Joint Core strategy Review of the housing figures mean for the development, narrative should be provided to recognise this and outline the potential impacts.
2.	2.2.12	The impact on ecology for the provision of the single span bridge over the River Chelt should also be referenced and recognised.
3.	2.3	Table 2.1 Objective 1 explicitly state the affordable housing provision is part of the total housing yield if this is the case. Objective 4 specify the percentage of Net gain and if the scheme is delivering say 10000 extra vehicular movements per day, how will this reduce noise?
4.	Section 5	If the application is accepted for Examination it would be helpful if Section 5 is a separate document that is updated as the Examination progresses. See this Guide to the Application as an example document on the National Infrastructure Planning website .
5.	General	The applicant should reference that the scheme is still affordable given inflationary pressures on the costs of construction schemes, and that HIF is still in place post spending review.

Draft Application Form		
Ref No.	Paragraph/Section	Comment/Question
6.	Section 14	Please provide the scoping Opinion reference number.



Draft Application Form		
Ref No.	Paragraph/ Section	Comment/Question
7.	Page 13 and 14, sections 22 and 23	Ensure that all text in the text boxes is legible. Text is overwritten at the top of each page.
8.	Section 24	Please confirm that this position remains as stated. The scheme should be at an advanced stage in order to substantiate what consents are required now.

Draft Development Consent Order		
Ref No.	Article/ Schedule	Comment/Question
9.	Contents Page	Part 5, Article 36 and Part 6, Article 39 both have '['preceding the text, these should be omitted.
10.	Page 4, para 6	Article 36 should be cross referenced and specified, this page also has a number of items of texts or paragraphs enclosed with [] which should be reviewed and amended.
11.	1	The scheme should be consistently referred to, the title refers to M5 Junction 10 Improvement Scheme, whereas the Development Consent Order is entitled M5 Junction 10 Development Consent Order and again in Article 1.
12.	2	The Applicant might want to consider whether the definitions of the various plans should refer to Schedule 10. Permanent works plans, temporary works plans, and utilities works plans are not listed in Schedule 10, despite the definitions in Article 2 saying that they are to be certified by the Secretary of State.
13.	8a)	Has this approach to Limits of Deviation been justified? The plan references should also be specified.



Draft Development Consent Order		
Ref No.	Article/ Schedule	Comment/Question
14.	8b)	The plan references should also be specified.
15.	8 b)ii	No figure is provided within this section.
16.	8 exception statement	This needs further justification and cross referenced to any documentation.....'except that these maximum limits of deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and the strategic highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement'.
17.	12	Application of the 1991 Act – the title of the legislation should be provided in full New Roads and Street Works Act 1991.
18.	14(7)	Should this be in Article 25 Public Rights of Way?
19.	32(c)	'the surrounding environment' can this be made more explicit.
20.	39	Typo – square bracket in heading.
21.	Schedule 2 (3)(d)	Change to Monday to Saturday and omit the latter part of the sentence.



Draft Explanatory Memorandum		
Ref No.	Paragraph/Section	Comment/Question
22.		The document does not refer to Schedules 3 to 10.

Draft Consultation Report		
Ref No.	Paragraph/Section	Comment/Question
23.	Executive Summary	Ensure statutory consultation dates are correct (8 December 2021 to 15 February 2022 and 6 December 2021 to 2 February 2021 are both referred to).
24.	General	It would be useful to include a section on engagement with hard to reach groups, such as the occupiers of the gypsy and traveller site. Also give consideration to including a section on addressing the public sector equality duty. It is acknowledged that the Equalities Impacts Assessment is referenced a number of times but for clarity a separate section would be advisable.
25.	Table 8-1	Malvern Hills District Council and Wychavon District Council are not listed as having been consulted.
26.	Appendix F	The final SoCC should be provided as an appendix to the Consultation Report, rather than a link to the Applicant's website.
27.	Appendix H.1	The s46 notification is named 'Section 46 Notice' and the letter is not dated. It is also useful for the s46 acknowledgement letter to be included.
28.	Appendix H.2	The sample s42 letter is named 'Section 42 Notice' and the letter is not dated.
29.	Appendix I.2	Ensure a complete copy of the s48 notice in the London Gazette is shown.



Draft Consultation Report		
Ref No.	Paragraph/Section	Comment/Question
30.	Appendix I.3	Ensure the s48 notice in The Times shows the name of the paper and the date.
31.	Appendix K	Lower Severn Internal Drainage Board are not listed as having been consulted.
32.	Appendix K	GTC Pipelines Limited are not listed as having been consulted.
33.	Appendix K	A list of persons consulted under s42(1)(d) has not been provided.

Draft Environmental Statement Chapter 1 – 4		
Ref No.	Paragraph/Section	Comment/Question
34.	Paragraphs 1.1.5 and 2.1.1	It is noted that the ES uses the terms 'Elements' when referring to initial options at paragraph 1.1.5 but similarly uses 'scheme elements' at paragraph 2.1.1 to subsequently describe the final scheme. The Applicant may wish to consider the use of alternative descriptors to avoid confusion between what are scheme elements and the 'Elements' that were ultimately excluded from the Proposed Development. The Applicant may also wish to include appropriate cross-references to the relevant Works No(s) in the draft DCO for each scheme element, to provide further clarification, where possible.
35.	Section 3.8	The terminology for options is the same between the M5 improvements and the A4019 widening (both called Option 1, 2 etc), whereas the new link road has a separate terminology (route corridor). It may ease the Inspectorate and Interested Parties if each element had its own terminology to describe alternatives alignments.



Draft Environmental Statement Appendix 1.3 Scheme Figures (Figure 2.1 Scheme Overview and 3.2 Scheme Options)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
36.	Figure 2-1	Figure 2-1 does not include the DCO/red line boundary for the Proposed Development. This should be included. Paragraph 2.5.1 indicates that Figure 2-1 shows the elements of the scheme that make up the Proposed Development; however, this figure does not label the three main elements that make up the scheme. It would be helpful if a figure could also be provided to show the areas of the three scheme elements, as described in the ES.
37.	Figure 3-2	The Applicant may wish to clarify the title of this figure to make clear this represents the “Options 1A, 2, 2A, 2B and 5 for the M5 Junction 10 Improvements Scheme (without earthworks)”, as stated in the ES. The Applicant may also wish to include Figure 3-3 “West Cheltenham Link Road Route Corridors” as a standalone figure rather than embedded in the ES text, for clarity.

Draft Environmental Statement Appendix 7.13 HRA Screening		
Ref No.	Paragraph/ Section	Comment/Question
38.	Paragraph 2.2.2	It would assist the reader if the extent of the Affected Road Network could be further described within the HRA Screening, supported by a figure, together with a statement confirming whether any European sites are located within 200m.
39.	Paragraph 1.3.6 (and also Paragraph	This paragraph identifies “...a car park (40-50 spaces) with a permeable surface accessed off Withybridge Lane, are also included as part of the design.” This car park does not appear to be described in the draft ES or draft plans and it is unclear if this is part of the final scheme or relates to construction compounds, for example. Although it would appear to relate to the flood storage area design. The Applicant should clarify and ensure



Draft Environmental Statement Appendix 7.13 HRA Screening		
Ref No.	Paragraph/Section	Comment/Question
	3.1.8 of the HRA SIAA)	consistency between the project description in the ES, HRA and dDCO. This comment also applies to Paragraph 3.1.8 of the draft HRA Statement to Inform Appropriate Assessment (SIAA).
40.	Paragraph 3.1.3	The description of Walmore Common groups the Special Protection Areas (SPA) and Ramsar but only includes information on the SPA designation. No mention is made of the Ramsar criterion for which the site is designated. The Inspectorate notes this information is provided in the appended screening matrices; however, the Applicant should also include Ramsar information in this sub-section of the HRA Screening.
41.	Section 4.1, Paragraphs 2.2.6 and 4.2.33.	It would appear that the HRA Screening has only considered the three housing developments for the in-combination assessment at this stage (eg paragraph 4.2.33). Noting paragraph 2.2.6, it would be helpful to clarify upfront if these are the only in-combination projects or plans considered at this screening stage of the HRA. This comment also applies to the draft HRA SIAA.
42.	Appendix A Figure 7.13 (and also Appendix B. Figure 7.14A of the SIAA)	There are several areas shaded as a Special Area of Conservation (SAC) that are not labelled on this figure, and the Cotswold Beechwood SAC referred to within the HRA Screening is not specifically identified. It is recommended this information be added to the figure for clarity, particularly in relation to those European sites considered in the HRA Screening. This comment also applies to Figure 7.14A if the draft HRA SIAA.
43.	Appendices B to H of the HRA Screening and Appendices C and D of the HRA SIAA	The table headings underneath “ <i>indicate the significance as a result of the identification of impacts set out above</i> ” do not in all cases link to the description of impacts above. For example, some state ‘not significant’, others state ‘N/A’ and it is not always apparent why one is chosen over the other. Further clarification/consistency would be helpful.



Draft Environmental Statement Appendix 7.14 HRA Statement to inform Appropriate Assessment		
Ref No.	Paragraph/Section	Comment/Question
44.	Section 4.6, Paragraph 4.6.1	The Inspectorate has noted some discrepancies between the text in Paragraph 4.6.1 and the Natura 2000 data form for the site. For example, lists category J02 (Human induced changes in hydraulic conditions) is listed as inside the SAC, whereas the data form lists this as both inside and outside; lists category G01 (Outdoor sports and leisure activities, and recreational activities) as both inside and outside the SAC, whereas the data form lists this as inside only.
45.	Section 5.3	The information here is very high level and the Applicant may alternatively wish to refer to the more detailed information on alternative solutions contained in the ES.
46.	Sections 6 and 7	Mitigation measures for ‘minor residual effects’ are included in Section 7 of the HRA SIAA; however, it is noted the HRA SIAA does not necessarily rely on these mitigation measures in reaching its conclusion of no adverse effects on integrity (AEol) (eg in respect of pollution events at Paragraph 6.3.4). This approach appears contradicted when considering in combination effects with Warners of Cheltenham, Blaisdon Way development in Table 8-1 which states “ <i>Considering the pollution prevention measures that will be implemented for the Scheme, pollution of the River Chelt as a result of the Scheme is considered highly unlikely. Furthermore, it is assumed that the Warners of Cheltenham proposals would also comply with such measures. Therefore, cumulative effects are not anticipated.</i> ” It is unclear whether mitigation is being relied upon for the conclusion of no AEol. The Applicant may wish to clarify.
47.	Appendix A – Figure 2-4	A number of figures are not at a scale that is easily legible, such as Figure 2-4 of Appendix A, and Figure 7.12B of Appendix H. Additionally, the DCO/red line boundary of the Proposed Development is missing from Figure 2-4. It is recommended clear figures be provided with the DCO application.
48.	General	The Inspectorate notes that Natural England were consulted on an earlier version of the HRA Screening in 2021 and there have been changes to the HRA reporting text and approach since. Does the Applicant intend to consult with NE again on the HRA prior to the DCO application?



Draft Environmental Statement Appendix 7.14 HRA Statement to inform Appropriate Assessment		
Ref No.	Paragraph/Section	Comment/Question
49.	General	The Applicant should ensure that reports do not contain personal data which should be removed from the submitted report, for example as included in Appendix G to the HRA SIAA. This comment also applies to the HRA Screening report (for example in Appendix N).

Draft Planning Statement		
Ref No.	Paragraph/Section	Comment/Question
50.	Page 6 , executive summary, Planning Framework section	Last sentence omit one of the full stops.
51.	3.3.8	Reference needed to Table 3-1 in first sentence where error message is.
52.	3.5	There is reference to local policy support for the proposal through the Joint Core Strategy and the Local Transport Plan. Particularly with regard to the JCS. Is it worth providing some commentary on the consultation feedback that was received associated with the proposals as further context and justification?
53.	6.4	Reference should be made to the support of Gloucestershire Local Enterprise Partnership's (GFirst LEP) Strategic Economic Plan of M5 Junction 10 improvements.



Draft Planning Statement		
Ref No.	Paragraph/Section	Comment/Question
54.	Appendix A	Include reference to sections 1.2 and 1,4 of the SEP, where the existing capacity of Junction 10 is seen as a weakness to the economic development of the area, and its improvements are seen as key to the delivery of the overall strategy.

Draft Book of Reference		
Ref No.	Paragraph/Section	Comment/Question
55.	General	Section 1.4 of the Planning Statement talks about the existing land uses and references an area of land occupied by travellers, adjacent to the southbound carriageway of the M5, approximately 400m north of Junction 10. There does not appear to be reference to the travelling community in the BoR extracts.
56.	Plot Refs. 4/2a, 5/4d	In the BoR, check the orientation references are correct/consistent e.g. for plot ref. 4/2a, check orientation to Elmstone Hardwicke and for 5/4d check orientation to Barn Farm.
57.	Plot Refs. 5/4d, 5/4e, 5/4f, 5/5b	Make sure the Description of Land in the BoR match with the description in the key on the Land Plans e.g. Plot refs 5/4d, 5/4e and 5/4f in the BoR refer to acquisition of rights although the Land Plan for these plots refer to temporary possession and acquisition of rights.



Draft Plans		
Ref No.	Plan No.	Comment/Question
58.	General	In the final application will there be section drawings of bridges, underpasses, attenuation ponds and any embankments? The applicant should be aware of the requirements for highway related development as set out in Regulation 6 of The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.
59.	TR010063/AP P/2.4 (sheets 3, 4, 7)	Make sure there is consistency in labelling the drainage attenuation basins between the Works Plans and DCO Schedule 1. On the Works Plans, the drainage attenuation basins are labelled as 1, 2, 3 etc and in Schedule 1 they are labelled as A, B, C etc.
60.	TR010063/AP P/2.4 (sheet 5)	Make sure all the works on the Works Plan are labelled. The environmental barrier on the Works Plan appears not to be labelled (referred to as 1(n) under DCO Schedule 1).
61.	TR010063/AP P/2.4 (sheet 3)	Make sure the DCO Schedule 1 is consistent with the labels on the Works Plans. The Works Plans shows Work No.6(c), although DCO Schedule 1 refers only to Work No. 6(a) and 6(b).
62.	TR010063/AP P/2.4 (sheet 4)	Make sure the DCO Schedule 1 is consistent with the labels on the Works Plans. The DCO Schedule 1 refers to Work No.7(a) to 7(l), although the Works Plans do not appear to show 7(b) to 7(l). On the Works Plans, 7(a) points towards Construction Compound 9/environmental compensation, whereas the description in the DCO Schedule 1 refers to strengthening, improvement, maintenance, reconstruction of any street.
63.	TR010063/AP P/2.4 (sheets 2, 5)	Possible typos in naming of Public Rights of Way on Works Plans (FB on sheet 2 and RB on sheet 5).



Draft Plans		
Ref No.	Plan No.	Comment/Question
64.	TR010063/AP P/2.4 (sheets 1 – 8)	Make sure terminology is consistent between key and on the Work Plans. On the Works Plans/DCO Schedule 1, compounds are named as construction compound, although on the key named as site compound.
65.	TR010063/AP P/2.4 (sheet 4)	Make sure road names specified in the DCO Schedule 1 are named on the Work Plans (for example, Standboro Lane).
66.	TR010063/AP P/2.9 (sheets 01 – 16)	General arrangement plans are of a scale that is smaller than the scale specified in Reg.5(3) of the Applications: Prescribed Forms and Procedure. In the application, justification should be provided for including plans of a smaller scale than specified in the Reg. 5(3).
67.	Land Plans (sheet 5 of 17)	Should the legend for plots coloured pink be ‘Land and rights to be acquired permanently’? (see plot 5/4b – in the Book of Reference the description of land is ‘All rights and interests...’)
68.	Land Plans (sheet 4 & 5 of 17)	Key plan to be provided showing the relationship between different sheets.

General

1. Where references are provided to other draft application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of signposting) as well as their respective reference number.



2. [\[MHCLG\] Application form guidance](#), paragraph 3, states: “*The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.*”
3. Ensure that when the final application is submitted documents are not marked confidential, unless they are environmentally sensitive, such as location of badgers.