

Meeting note

Project name	M5 Junction 10 Improvements Scheme
File reference	TR010063
Status	Final
Author	The Planning Inspectorate
Date	28 November 2023
Meeting with	Gloucestershire County Council
Venue	Microsoft Teams
Meeting objectives	Project Update Meeting
Circulation	All attendees

Summary of key points discussed, and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Headline Issues

Provision of plans

In response to the Planning Inspectorate's s51 advice (appended to this meeting note), the Applicant proposes to provide elevation drawings of the proposed interchange bridges and new River Chelt Bridge, and section drawings for the proposed underpass.

Adequacy of the Environmental Statement (ES) (Document 6.1 – 6.15)

Following on from the s51 advice, the Applicant is proposing to provide information on any likely significant effects that may occur as a result of traffic changes across the network due to the closure of the existing two M5 slip roads during construction. They will include a figure depicting the proposed diversion routes and provide additional information in the relevant ES chapters.

In respect of diversion routes, the Applicant confirmed it will assess the increase in noise against a threshold of 3dB and identify whether further sensitive receptors would be subject to likely significant effects. Information is to be included in the ES.

The Applicant believes that the additional information supplied within the Environmental Statement is not further environmental information within the meaning of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 nor is there a requirement to publicise under those Regulations where there has

been non-acceptance. The Applicant will, however, follow the publication requirements of regulation 16 upon acceptance. In addition, as the amendments to the environmental statement do not create any relevant impacts on section 44 Planning Act 2008 persons the Applicant is not re-consulting under section 42 Planning Act 2008.

Post-meeting note

The Inspectorate considers that it is for the Applicant to determine whether any further consultation on additional content within the Environmental Statement is required.

Further observations:

Land Plans (Document 2.2)

The Applicant confirmed they will address the inconsistencies in the plans as per the s51 advice.

Work Plans (Document 2.4) and draft DCO (Document 3.1)

The Applicant confirmed they will address the inconsistencies in the plans as per the s51 advice. With regard to the clarity of location, labelling and limits / boundaries of each work number the Applicant queried why the methodology for detailing / labelling work numbers has been used in other projects but has been raised as an issue now. The Applicant confirmed they will not be amending this if not compulsory for the purposes of acceptance.

Draft DCO (Document 3.1) and Limits of Deviation (LoD)

The Applicant queried why the shading methodology for the areas of Limits of Deviation has been used in other projects but has been raised as an issue now. They also believed the scaling and labelling was acceptable in previous projects. They confirmed they will not be amending this if not compulsory for the purposes of acceptance.

Post-meeting note

The Inspectorate considers that the Applicant's existing approach, along with defining a maximum limit of lateral/horizontal deviation within the dDCO would provide sufficient clarity at this stage. Further information may be requested if the application is accepted for Examination.

General Arrangements Plans (Document 2.9)

The Applicant were not aware they needed to provide the existing and proposed general overview of the scheme, having not seen this requested in previous projects. The Planning Inspectorate confirmed this is becoming more common to request as it

assists members of the public to understand the project. The Applicant confirmed that they will address this matter as per the s51.

Biodiversity Sites and Features Plans (Document 2.11)

The applicant confirmed they can correct the inconsistency as per s51 advice.

Historic Environment Sites and Features Plan – Document 2.12

The Applicant will provide 3 sets of drawings to reduce the overlap on the plans at the point of resubmission.

Statement of Reasons (Document 4.1)

The Applicant will correct the Statement of Reasons as per the s51 advice.

Funding Statement (Document 4.2)

The Applicant notes the advice in relation to the Funding Statement and will be liaising with Homes England with a view to agreeing what further information can be provided on funding milestones. This will be provided at the earliest opportunity. In regards to the point raised regarding Appendix A in the s51 advice, the Applicant will provide a plan to support this.

Consultation Report Appendix B (Document 5.2)

The Applicant will provide a full copy of the Scoping opinion as per the s51 advice.

Environmental Statement (Document 6.1 – 6.15)

Description of the Development

The Applicant is proposing to cross check all of the ES documents to address the identified inconsistencies. The Applicant does not believe all checks can be completed before the point of resubmission due to the volume of documents to check, and therefore the Applicant proposes to note these through an errata log.

The Applicant proposes to provide figures and information in relation to the design of noise barriers.

The Applicant is still in discussions with their construction contractor with regards to the likely number of construction workers, and the Applicant will provide this to the Inspectorate once it has been determined.

Post-meeting note

The submission of additional documentation is subject to the Examining Authority's discretion on accepting additional submissions either during pre-examination or examination.

As a general comment, the Inspectorate advised that any subsequent mitigation identified as being required as a result of the updated assessments should be set out within relevant ES chapters.

The Applicant will provide a sign posting document to the Planning Inspectorate of any amendments made for ease of use, setting out how it has responded to the s51 advice.

Assessment scope

As requested in the s51 advice, the Applicant will provide an explanatory description as to why they have undertaken a different methodology (use of Design Manual for Roads and Bridges (DMRB) LA 105) rather than the Environmental Protection UK (EPUK)/ Institute for Air Quality Management (IAQM) criteria referred to within the Scoping Opinion.

As a result of time and resource constraints the Applicant proposes to provide further information regarding Chapter 8 of the ES in relation to modelling of flood risk, including construction compounds, in advance of any Preliminary Meeting, should the application be accepted. The applicant stated that construction compounds are planned to be outside of any areas of flood risk.

As per the s51 advice concerning Appendix 9.3 of the Environmental statement, the Applicant confirmed they will amend the photo sheet to bring them closer to the Guidelines for Landscape and Visual Impact Assessment (GLVIA) Type 1 requirements. They advised the photographs will not be fully aligned to the Type 1 Guidelines as the GLVIA considers proportionate EIA, however the amended figures should provide the necessary information.

The Applicant advised that they would consider the renaming of ES Appendix 7.19.

Requirements and delivery

The applicant confirmed there may be a possibility of controlling the number and length of night time closures through the mitigation / management plans. They will assess how this can be done and how best to present this and in which document.

Flood Risk Assessment (FRA) (Document 6.15)

As with matters relating to Chapter 8 of the ES, as a result of time and resource constraints, the Applicant proposes to provide further information regarding Flood Risk, in advance of any Preliminary Meeting, should the application be accepted.

The Applicant confirmed that the ES and associated FRA can differentiate between flood zones 3a and 3b.

The Applicant confirmed the numbering of figure within Appendix 8.1B is to be amended for clarity.

The Applicant advised that the scheme modelling report wasn't included, as extracts of the relevant information were included within the FRA. They are happy to provide this report and will also provide the Drainage Strategy report.

Transport Assessment (Document 7.5)

The Applicant proposes to provide the post Covid-19 update on the traffic modelling before Examination (if accepted) but this will not be available at the point of resubmission. They advised this is due to the time taken to obtain the large volume of data.



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By email

Your Ref:

Our Ref: TRO10063

Date: 23 November 2023

Dear Tim Pearce,

Planning Act 2008 (as amended) – Section 51

Application by Gloucestershire County Council for an Order Granting Development Consent for the M5 Junction 10 Improvements Scheme

Following the Applicant's withdrawal of the application for Examination on 20 November 2023, the Planning Inspectorate makes the following observations about the Application submitted on 24 October 2023. The Applicant may wish to consider these observations should it be minded to re-submit a new application for Examination. Some of the following observations are provided on a topic basis, while others concern specific documents.

This letter comprises advice to the Applicant provided under section 51 of the PA2008. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Headline Issues

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 at s5 (2) states the application must be accompanied by - (o)

“any other plans, drawings and sections necessary to describe the proposals for which development consent is sought, showing details of design, external appearance, and the preferred layout of buildings or structures, drainage, surface water management, means of vehicular and pedestrian access, any car parking to be provided, and means of landscaping”

There do not appear to be plans provided which show the details of design, external appearance and means of landscaping, that would meet these requirements.

Also, drawings showing sections and elevations for the interchange bridges, River Chelt bridge and M5 underpass, as well as gantries, appear to be missing. In the absence of such plans, it is difficult to understand how the scheme may appear on the ground, and what vision is expected to be delivered to achieve a design that would deliver a scheme that would meet the tests of good design which is a thread through the NPS for National Networks. While it is understood a finalised design may not be presented at this stage, sufficient information clearly demonstrating the design vision, and the approach taken to achieve this should clearly be presented.

Adequacy of the Environmental Statement (Document 6.1 – 6.15)

M5 Junction 10 slip road removal during construction

Information on traffic diversion routes during construction as a result of closures to the M5 Junction 10 slip roads has not been included in the Environmental Statement (ES). It is therefore unclear whether there would be any likely significant effects on sensitive receptors located on diversion routes that could be affected by changes in traffic, for example due to noise impacts, effects on local communities and users of local roads, and whether such effects would require mitigation.

The Applicant should provide information in the ES to describe the likely traffic diversion routes required during construction, with reference to their nature, scale and duration. It should provide an assessment of effects to sensitive receptors, where likely significant effects could occur or otherwise explain, with reference to relevant guidance, why significant effects would not occur. For the avoidance of doubt, this should include consideration of noise and impacts on local communities and road users. The ES should set out any measures required to mitigate significant effects identified. The Applicant should ensure all relevant assessments influenced by the traffic diversions are included.

Further observations

The Inspectorate also wishes to draw the Applicant's attention to the following observations and advice following completion of the Acceptance checks:

Land Plans (Document 2.2)

A number of inconsistencies have been identified, as follows;

Sheet 4 appears to indicate the intention to acquire permanently a section of the mainline of the M5 in respect of plot references 4/1c and 4/1c(i), while plot 4/1d on the same sheet is coloured blue and is described as land to be used temporarily and rights to be acquired permanently.

The Book of Reference (BoR) for the plots 4/1c and 4/1c(i) describes the interest to be sought as "*All rights and interests in*" while 4/1d is described as "*Permanent acquisition of rights and temporary possession and use of*"

Whilst this is a specific example of an apparent inconsistency, please ensure that the BoR and Land Plans are carefully checked to ensure consistency and clarity of what is being sought.

Some of the locational descriptions of plot numbers in the BoR when crossed referenced to the Land Plans could be more accurate. For example, Plot 3/1e in the BoR is described as being 'southwest of Rosewood'. However, it is marked as being located 'southeast' of Rosewood on the land plan. There are several similar examples within the submission, please check the Land Plans for accuracy.

Work Plans (Document 2.4) and draft DCO (Document 3.1)

Work No.1 within the dDCO says they are shown on sheets 1 to 10 but then includes items on sheets 12 under item (k) and (p) on sheet 15. Work No. 2 is described as on sheets 4 and 5 but then includes (e) flood compensation on sheet 11, with a further similar instance in respect of Work No.6.

In the dDCO, Work No.4(y) is noted as the demolition of buildings forming part of Baileys Nursery west of Gallagher Retail Park access. However, Baileys Nursery is not labelled on the Work Plans.

The clarity of the location of each work number and how these are described in the dDCO needs to be precise. The current plans do not appear to have defined limits/boundaries to each respective work number, and the conflict in description within the dDCO adds further to the potential for confusion. Works Plan, Work No. 2 (b) is described in the key as compensation and mitigation, which does not correspond with the description in the dDCO. It would be helpful if this is reconsidered and how the dDCO and Works Plans combine to accurately define and describe the work proposed.

Draft DCO (Document 3.1) and Limits of Deviation (LoD)

The Work Plans define by a coloured shading, the extent of the lateral limit of deviation. These plans are however not ones that could be accurately scaled to assess the dimension/extent of the deviation allowed. It would be helpful to define a maximum limit within the dDCO.

This has the potential for other knock on effects in respect of the bridges, underpasses and other structures and the extent of deviation for these elements needs to be fully understood, particularly in light of the additional requirement for clarity in respect of highway schemes set out in the section 6 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

The vertical LoD is defined in Article 8 of the dDCO, but it is not apparent where the distinction of allowing a depth of up to 2m of excavation for borrow pits, flood storage and flood compensation areas has been set out in the ES in respect of increased excavation and the consequential knock on effects that may arise. The Applicant should clarify whether the LoD is consistent with parameters assessed in the ES..

Borrow pits do not appear to be referenced in any Work No. or elsewhere referenced in the dDCO, this should be clarified.

General Arrangements Plans (Document 2.9)

There do not appear to be an existing and proposed general overview of the scheme. General Arrangement plans of the interchange bridges, River Chelt Bridge, and Underpass also appear to be missing. Please ensure these are provided in any future submission.

Biodiversity Sites and Features Plans (Document 2.11)

There is also an inconsistency between the Site of Special Scientific Interest (SSSI) legend and actual plan on the large-scale plan, as SSSIs are shown as solid green in the legend but hatched green on the plan itself. The Applicant is advised to correct this for consistency and ease of understanding.

Historic Environment Sites and Features Plan – Document 2.12

This plan is difficult to understand due to the numerous overlapping categories shown. The Applicant is advised to provide a plan which clearly show the different receptor types. This may be in the format of separate plans for different receptor types or by providing the maps at a larger scale.

Statement of Reasons (Document 4.1)

Paragraph 7.1.2 refers to Special Category land plans (2.6) but paragraph 7.2 of the document says there is none.

Funding Statement (Document 4.2)

It would appear that the funding is reliant upon both Homes England funding (approximately 70%) and future s106 funds generated through subsequent developments. It would be helpful to understand the terms of the offer for funding from Homes England and what if any conditions apply to this.

Appendix A of the Funding Statement identifies a number of sites for future development, it would be of assistance if they are identified on a plan.

Consultation Report Appendix B (Document 5.2)

Appendix B only includes a hyperlink to the Scoping Opinion for the Proposed Development. The Applicant is requested to provide a full copy of the Scoping Opinion.

Environmental Statement (Document 6.1 – 6.15)

Description of the Development

The Inspectorate has identified inconsistencies in the way the Proposed Development has been described in the ES and other application documents. Examples include:

- the required volume of flood storage, including the permitted maximum depth / limits of deviations for excavations;
- the slope of the embankments;
- the volume of fill required; and
- the predicted number of Heavy Duty Vehicle (HDV) movements during construction.

The above are examples only and the Applicant is advised to ensure that there is consistency in the project description for all elements across all documents, or an explanation as to why any parameters have been considered differently.

The Secretary of State's Scoping Opinion requested that information about the design and appearance of any proposed noise barriers should be provided to inform the assessment of any likely significant visual effects. The ES provides information about the dimensions of the proposed noise barriers but does not provide information about the proposed materials or visual appearance. The ES should provide an indication of the proposed materials and likely visual appearance.

ES Chapter 2 The Scheme does not include information about the expected number of construction workers, associated vehicle movements, or the number of parking spaces proposed as part of construction compounds (if any). The Applicant should provide this information or, if it is not yet known, confirm a worst-case scenario with an explanation as to how this has been established.

Assessment scope

ES Chapter 5 Air Quality screened out the requirement for a detailed air quality assessment of construction traffic on the basis of the criteria in the Design Manual for Roads and Bridges (DMRB) LA 105, i.e. 200 HDV movements per day. The Scoping Opinion agreed that this matter could be scoped out if the daily HDV movements were below the criteria for construction traffic assessment in Environmental Protection UK (EPUK)/ Institute for Air Quality Management (IAQM) criteria, which is noted to have a lower threshold of vehicle movements. The Applicant is advised to provide an explanation of the reasons for deviating from the Scoping Opinion and the use of the higher threshold to screen out a detailed assessment. It should also be clarified whether any construction would be routed through the Air Quality Management Area in Cheltenham and, if so, whether a different threshold for detailed assessment should be applied.

ES Chapter 5 Air Quality and ES Chapter 14 Climate do not include an assessment of emissions from construction worker vehicle movements. The Scoping Opinion was based on a commitment in the Scoping Report to provide such an assessment as part of the consideration of greenhouse gas (GHG) emissions. The ES should include an assessment of this matter, based on a worst case scenario if the numbers have not yet been established, or otherwise explain by reference to relevant guidance as to why significant effects are not likely to occur.

ES Chapter 8 Road Drainage and Water Environment presents an assessment of effects during the construction phase and concludes a moderate or large (significant) effect for flood risk, which it is stated could be managed through a future iteration of the Environmental Management Plan (EMP) (2nd). The assessment is based on generic impacts associated with road schemes rather than information specific to the Proposed Development. ES Appendix 8.1 Flood Risk Assessment (FRA) suggests that further modelling of construction phase effects on flood risk may be required at a later stage (for the River Chelt and Leigh Brook), as secured in the Register of Environmental Actions and Commitments (REAC). The FRA also suggests that further assessment of the proposed haul routes may be required. It is unclear how such assessment is secured, as whilst reference is made to other consenting processes (e.g. for environmental permits), it is not categorically stated that this would be used. The Applicant is requested to explain whether the additional modelling and/ or assessment described is required to inform the assessment of construction phase flood risk effects in the ES to support the identification of any further mitigation required.

The FRA states that construction compounds would be located outside of Flood Zone 3 or would require temporary platforms and compensatory storage. This matter is not referenced in ES Chapter 8. The REAC (WE15) states that compounds within the floodplain would be minimised and does not reference compensatory storage (other than the permanent areas in Work Nos. 3, 5 and 7). The Applicant is requested to explain how the siting of construction compounds has been assessed in the ES and whether there is a requirement for compensatory storage on a temporary basis during construction (and if so, whether provision has been made for this within the dDCO).

ES Appendix 9.3 provides annotated photographs as part of the landscape and visual impact assessment, which the Applicant describes as Guidelines for Landscape and Visual Impact Assessment (GLVIA) Type 1. The photographs do not appear to have been produced in line with the Landscape Institute TGN 06/19 and the Applicant is requested to explain how this guidance has been followed or otherwise update the photographs to be consistent with the guidance.

GLVIA suggests that for the majority of EIA development, Type 2 to 4 visualisations should be prepared i.e. wireline or photomontages. This type of visualisation has not been provided and no explanation for the type of visualisation selected has been provided. The ES should include an explanation and the Applicant is advised to give consideration to the production of photomontages as part of the landscape and visual assessment, as it is considered that such information would aid understanding of the likely significant effects.

The Applicant is advised that Environmental Statement Appendix 7.19 – Biodiversity chapter Figures – Figure 7A could be renamed “Ecological Study Areas” for consistency.

Requirements and delivery

ES Chapter 6 Noise and Vibration includes an assessment of construction traffic noise based on two night-time closures of M5, concluding that there would not be a significant effect on the basis that the duration threshold in British Standard (BS) 5228 would not be exceeded. It is not clear how the draft Development Consent Order (dDCO) secures that night-time closures would be restricted to two instances (or fewer instances than would result in a significant effect under BS 5228). The Applicant is advised to provide clarity on this matter.

Flood Risk Assessment (Document 6.15)

ES Appendix 8.1A does not provide information to differentiate between land within Flood Zone 3a and 3b. The Applicant is advised to provide updated figures and text which describe the location and extent of these flood zones.

The figures in ES Appendix 8.1B skip from 3-4 to 3-7 and 5-1 to 5-4. It does not appear that any are missing as the contents page appears to indicate that the Applicant did not use the intervening figure numbers; however, the Applicant is advised to confirm this.

The FRA refers to several other reports including a Scheme Modelling Report and three Atkins reports that have information to support the sequential/ exception test, which have not been provided. The Applicant is advised to submit these.

ES Appendix 8.2 (Drainage Strategy Report) refers to maintenance schedules and appendices, which are stated to be available on request. The Applicant is advised to submit these.

Transport Assessment (Document 7.5)

Table 2.1 in the Environmental Statement (Chapter 6.2 - The Scheme) confirms that there is a 30-month total construction period. Of particular note, the southbound slip road is expected to be closed for 9 months (month 11 to 20) and the northbound slip road closed for 12 months (month 15 to 27). Although there will be road works and construction vehicle activity over the whole construction period, it is expected that there will also be background traffic re-routing and diversions occurring over these periods in particular. This is as per the comments set out previously under the heading of 'Adequacy of the Environmental Statement'.

The Transport Assessment should provide an assessment of construction stage traffic impacts (including those associated with the periods during which the existing southbound and northbound slip roads would be closed in advance of the scheme completion). This should include the identification of any consequential background traffic re-routing and diversions. It should also identify any material impacts in terms of journey lengths / delays and congestion.

Furthermore, it is understood that the traffic modelling uses the Gloucestershire Countywide Traffic Model (GCTM) Version 2.3 (SATURN) and that this has a base year of 2015 (which was updated in June 2019).

It is recommended that the validity of all of the traffic modelling is assessed using present day observations (including traffic surveys etc). This is considered to be particularly important given that the model base year is prior to Covid-19.

It would also be helpful for the Transport Assessment to include current year / 2023 assessments so that the future road operation can be considered against current operational performance.

Should the Applicant be minded to resubmit the application it should pay close attention to the advice set out in this letter. If the Applicant is minded to follow the Inspectorate's advice and change any aspects of its proposals, prior to an application being resubmitted it should consider whether there would be a need to undertake any consultations with statutory and non-statutory consultees.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

TA Williams

Tracey Williams
Case Manager- National Infrastructure

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