

M5 Junction 10 Improvements Scheme

Change Application 1 Change Application Summary Report TR010063/APP/10.3

Nationally Significant Infrastructure Projects: Changes to an application after it has
been accepted for examination

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Nationally Significant Infrastructure Projects: Changes to an application after it has been accepted for examination

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

Change Application 1

Change Application Summary Report

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Author:	M5 Junction 10 Improvements Scheme Project Team

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1. Introduction

1.1. Purpose of this document

- 1.1.1. This document forms part of Change Application 1 made on 3 September 2024 to request amendments to the application for development consent (the “**DCO Application**”) under the Planning Act 2008 (the “**2008 Act**”) submitted to the Secretary of State for Transport via the Planning Inspectorate (the “**Inspectorate**”) on 19 December 2023 by Gloucestershire County Council (the “**Applicant**”) for the M5 Junction 10 Improvements (the “**Scheme**”).
- 1.1.2. On 16 January 2024, it was confirmed on behalf of the Secretary of State that the DCO Application had been accepted for examination. Examination of the DCO Application by the Examining Authority (the “**ExA**”) commenced following the Preliminary Meeting on 4 June 2024.
- 1.1.3. The Applicant submitted a Notification of Change Request [**AS-061**] to the ExA on 12th August 2024 which outlined the Applicant’s proposal to apply for non-material amendments to the DCO Application comprising Changes 1 to 8. The ExA responded to the Notification of Change Request on 21 August 2024 [**PD-011**] (the “**Rule 9 Letter**”).
- 1.1.4. As outlined in the Covering Letter submitted with Change Application 1, the Applicant has decided to apply for Changes 1 to 8 in two separate Change Applications. This Change Application relates only to Change 8 of the Changes outlined in the Notification of Change Request [**AS-061**], involving the upgrade of compulsory powers sought over several land plots in connection with dormice mitigation and to address the Applicant’s engagement with National Highways (“**Change Application 1**”). A subsequent Change Application 2 will cover Changes 1 to 7.
- 1.1.5. The Applicant considers that Change 8 can be considered independently of Changes 1 to 7 on the basis that Change 8 relates only to changes in the land rights sought over land within the Order limits, whereas Changes 1 to 7 relate to changes in the design and works required for the Scheme.
- 1.1.6. The proposals outlined in this document for Change 8 do not represent changes to the Scheme so significant that in effect a new scheme is being applied for, either when considered individually or collectively with Changes 1 to 7. Taken together, Changes 1 to 8 reflect both that the Applicant is listening to what is being said by affected and interested parties, and also reflect outcomes of design evolution, as a result of early contractor involvement progressing in parallel with the application.

1.2. Legislative Context and Guidance

- 1.2.1. In preparing Change Application 1, the Applicant has had regard to:
 - Guidance by the Ministry of Housing, Communities and Local government and the Department for Levelling Up, Housing and Communities entitled *Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects (30 April 2024)* (the “**Examination Guidance**”). Paragraph 18 of the Examination Guidance concerns changes to a DCO application during examination.
 - Guidance by the Inspectorate entitled *Nationally Significant Infrastructure Projects: Changes to an application after it has been accepted for examination (8 August 2024)* (the “**Change Application Guidance**”).

The introduction to the Change Application Guidance states that “*in certain circumstances an applicant may decide they need to make a change to an application after it has been accepted for examination, for example, in response*”

to the publication of new or emerging government policy or following on-going negotiations between the applicant and other interested parties", which is the case here.

'Step 4' of the Change Application Guidance sets out the information required to be included in the Change Application. The Applicant's compliance with the requirements of Step 4 is summarised in the table at Appendix A of this document.

- The requirements of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the "**CA Regulations**"), which would be engaged by the proposed upgrades to the compulsory acquisition powers over land within the Order limits as part of Change 8.
- The additional requirements identified in the ExA's Rule 9 Letter. The Applicant's consideration of the ExA's guidance is summarised in the table at Appendix A of this document.

2. Proposed change to the Scheme

2.1. Change 8 - Land rights

Introduction

- 2.1.1. The Notification of Change Request [AS-061] proposed eight changes to the DCO Application (Changes 1 to 8). This Change Application relates only to Change 8, which is described and explained in detail in section 2 of this Change Application.

Detail of the proposed change

- 2.1.2. Change 8 comprises proposed changes to the rights sought over two sets of land plots within the Order limits. The first set of changes relates to land plots required for dormice hedgerow mitigation, and the second set of changes responds to the Applicant's engagement with National Highways.

Hedgerow Plots

- 2.1.3. A change is proposed to the Land Plans to align them with the extent of dormice hedgerow mitigation shown on the General Arrangement (GA) [TR010063/APP/2.9] plan and Environmental Masterplan (EMP) [TR060063/APP/2.13]. This change is not a design change and relates to an upgrade in the rights sought from temporary possession to new rights which will enable the Applicant to undertake a more efficient maintenance of the hedgerow H48.
- 2.1.4. The Applicant seeks to upgrade the following plots from temporary possession (shown as green in the Land Plans) to temporary possession and acquisition of new rights (shown as blue in the Land Plans): 5/4d(v), 5/4d(vi), 5/31c(i), 5/4d(vii), 5/4d(viii), 5/31a(i) and 5/31b(i), which together encompass hedgerow H48 (the "**Hedgerow Plots**").
- 2.1.5. As an upgrade to compulsory acquisition rights is proposed, the Applicant acknowledges that CA Regulations will be engaged. The Applicant can confirm, however, that no land outside the current Order limits is required for the proposed changes.
- 2.1.6. Negotiations with Robert Hitchins Ltd. (on behalf of Robert Hitchens Limited and Gloucester Land Company which are both under same overall ownership) for the voluntary acquisition of the Hedgerow Plots is ongoing and would include the rights required by the proposed change. Heads of Terms have been discussed in detail with Robert Hitchins Ltd. and there are a few remaining points to be resolved.

National Highways Plots

- 2.1.7. At the Compulsory Acquisition Hearings in August 2024, National Highways requested for the Applicant to respectively upgrade and downgrade the rights sought over various plots within National Highways' ownership.
- 2.1.8. In response to National Highways' request, the Applicant seeks to upgrade the rights sought in respect of the following plots within National Highways' ownership from temporary possession (shown green in the Land Plans) to temporary possession and acquisition of rights (shown blue in the Land Plans): 3/2b, 5/2h(i), 5/2j, 5/2k, 5/2l and 5/2y (the "**National Highways Plots**").
- 2.1.9. The Applicant notes that, separately to Change Application 1, the Applicant's submissions at Deadline 4 downgrade the following plots under National Highway's ownership (with corresponding amendments to the Land Plans submitted at Deadline 4):
- Plot 3/2c – Downgrade from temporary possession and acquisition of rights (shown blue) to temporary possession only (shown green);

- Plot 4/1c - Downgrade from permanent acquisition (shown pink) to temporary possession and acquisition of rights (shown blue)
- Plot 4/1c(i) - Downgrade from permanent acquisition (shown pink) to temporary possession only (shown green)
- Plot 5/2z – Downgrade from permanent acquisition (shown pink) to temporary possession and acquisition of rights (shown blue)
- Plot 5/6h – Downgrade from permanent acquisition (shown pink) to temporary possession and acquisition of rights (shown blue).

Funding for proposed change

- 2.1.10. The estimated cost to acquire new rights and upgrade the plots listed for Change 8 is expected to be approximately £10,000 and to be funded from the Risk contingency budget for the Scheme.
- 2.1.11. Section 2 of the Funding Statement [APP-036] sets out that a total of £33,894,705 has been allocated for risk with the intention of providing for changes such as this.

Rationale for the proposed change

- 2.1.12. The changes to land rights comprising Change 8 are proposed in response to ongoing engagement with affected or interested parties and to address matters raised at the compulsory acquisition and issue specific hearings. The rationale for the two sets of proposed changes to the Hedgerow Plots and the National Highways Plots is set out below.

Hedgerow Plots

- 2.1.13. To ensure legal compliance in relation to dormice, a European Protected Species Licence (EPSL) application has been prepared and agreed with Natural England. A number of mitigation and compensation measures are detailed within the licence, including habitat creation and enhancement to compensate for loss of dormouse habitat, and management of newly created/enhanced habitat. Natural England has confirmed its agreement on the details of these mitigation and compensation measures through the provision of a Letter of No Impediment (LoNI) for dormice. These measures and the mechanisms for securing them are set out in the REAC [TR010063/APP/7.4] (see items B11, B12 and B13) and apply to a number of areas including hedgerow H48 and other soft estate areas (including National Highways' land). The relevant REAC commitments are summarised below, with specific reference to hedgerow H48.
- 2.1.14. REAC B11 covers habitat creation to compensate for loss of dormouse habitat. For hedgerow H48 this includes the installation of dormouse nest boxes (approximately 5) which will be monitored for the first five years following completion of the Scheme.
- 2.1.15. REAC B12 covers habitat enhancement to compensate for loss of dormouse habitat. For hedgerow H48 this involves this hedgerow having gaps planted up with a mixture of hazel, pedunculate oak, and honeysuckle.
- 2.1.16. REAC B13 covers habitat management to ensure success of newly created habitats for dormice. For hedgerows, the requirement is for hedgerows to be managed for a period of 10 years. Maintenance tasks for hedgerows during this period include:
- Hedgerows to be retained and enhanced will be managed less intensively, being trimmed every three years on rotation, with a minimum height of 3 m maintained.
 - Newly planted hedgerows will be cut in an 'A' shape to maintain a wide base.
 - Weeding and annual top up of mulch within 0.5 m radius of each whip to 50 mm depth.
 - Protective fencing and guards will be checked annually and repaired or replaced as required. This will be undertaken until planting is established, anticipated to be five years.

Replacement specimens will be planted as appropriate in early November to late March for 10 years following the planting.

- 2.1.17. The upgrade in land rights from temporary possession to temporary possession and new rights over the plots associated with hedgerow H48 are required for a more efficient implementation of the dormice mitigation and compensation strategy as described above. This will ensure that the Applicant is able to secure management and maintenance during the period of 10 years.

National Highways Plots

- 2.1.18. During the course of Examination, the Applicant has continued to engage with National Highways and together they have developed and agreed a set of principles for how land and rights would be acquired in relation to either land in National Highways' ownership within the Strategic Road Network.
- 2.1.19. Following agreement of these acquisition principles, the Applicant and National Highways assessed the powers sought for each of the relevant plots and jointly concluded that the upgrade in rights to which Change Application 1 relates and the downgrades (which were part of Deadline 4 submission) are required to better reflect these principles and future-proof the delivery of the Scheme.

Environmental Impact of the proposed change

- 2.1.20. The proposed upgrades to land rights comprising Change 8 are not changes to the design of or works required for the Scheme as set out in the DCO Application. As explained, Change 8 is proposed to ensure the Scheme includes the necessary land rights to most effectively deliver the Scheme. On this basis, Change 8 will not result in any new or different likely significant environmental effects and no changes to the Environment Statement or further environmental assessment are required to support Change Application 1.

Consent from affected parties

Hedgerow Plots

- 2.1.21. The Applicant confirms that negotiations with Robert Hitchins Ltd. (and its subsidiaries) for the voluntary acquisition of the Hedgerow Plots land is ongoing and would include the rights required by the proposed change. Heads of Terms have been discussed in detail with Robert Hitchins Ltd. and there are a few remaining points to be resolved.
- 2.1.22. The Applicant has not been able to obtain written consent from Robert Hitchins Ltd. for the upgrade in rights sought over the Hedgerow Plots prior to Change Application 1 at the point this Change Application is submitted and therefore will work with the ExA to ensure that the requirements of regulations 5 to 19 of the CA Regulations are complied with within the Examination timetable.

National Highways Plots

- 2.1.23. The Applicant has written consent (via email) from National Highways in respect of the upgrade in rights for the National Highways plots.

Additional Consents or Licences

- 2.1.24. The Applicant confirms that the proposed changes for Change 8 in this Change Application 1 will not alter the current position in relation to consents and licences for the Scheme. The changes proposed in respect of the Hedgerow Plots would enable the Applicant to secure the final dormouse licence for the Scheme.

Changes to the Application Documents

- 2.1.25. As a result of the changes comprising Change 8, the Book of Reference, Statement of Reasons, Land Plans, Land Rights Tracker and draft DCO will need to be updated to upgrade the rights sought over the existing Hedgerow Plots and National Highways Plots to "Land to be used Temporarily and rights to be acquired permanently" (Blue land). A new Explanatory Memorandum will be submitted for completeness but there are no amendments required to this document as a result of Change Application 1.
- 2.1.26. The plot numbers to be upgraded from temporary possession (shown green in the Land Plans) to temporary possession and acquisition of rights (shown blue in the Land Plans) are: 3/2b, 5/2h(i), 5/2j, 5/2k, 5/2l and 5/2y; and 5/4d(v), 5/4d(vi), 5/31c(i), 5/4d(vii), 5/4d(viii), 5/31a(i) and 5/31b(i).

Rationale for Applicant's consideration of the proposed changes as non-material

- 2.1.27. There is no specific legal or technical definition of the term "non-material". However, the Applicant has had regard to paragraph 018 (Can changes be made to an application during an examination?) of the Examination Guidance.
- 2.1.28. In addition to the above, the Applicant has considered the matters set out below when forming its view on whether the proposed changes are material. This reflects the Examination Guidance which provides a helpful guide as to what factors the ExA will consider when determining whether a change is material.
- 2.1.29. These factors, and the Applicant's consideration of materiality in respect of Change Application 1, are set out in the table below.

Factors	Applicants' consideration of materiality
the changes would mean the project is effectively a different one from that contained in the application	The Applicant does not view the proposed changes as substantial, nor does it view the proposed changes as altering the substance of the DCO Application originally submitted. The changes comprising Change 8 do not involve changes to the design of or works required for the Scheme.
the application (as changed) is still of a sufficient standard for examination	The Applicant considers the Changes, if introduced to the Examination, will be of sufficient standard for the Examination.
sufficient consultation on the changed application can be undertaken to allow for the examination to be completed within the statutory timetable	The Applicant confirms that sufficient consultation has been carried out with affected parties pre-submission of Change Application 1 and that the proposed timetable can accommodate statutory consultation under the CA Regulations.
the changes would breach the principles of fairness and reasonableness for parties participating in the examination	The Applicant considers the proposed changes would not breach the principles of fairness and reasonableness for parties given their targeted nature and previous involvement with affected parties
any other procedural requirements can still be met.	The Applicant confirms that any other requirements can still be met.

3. Consultation and Compliance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010

3.1. Non-Statutory Consultation

Targeted Pre-Application Consultation

- 3.1.1. The Applicant considers that extensive non-statutory consultation in respect of Change 8 is not required because the changes involve upgrades to rights sought over existing land plots within the Order limits and do not involve any changes in the design of or works required for the Scheme. As confirmed by paragraph 2.1.25 above, Change 8 will not result in any new or different environmental effects and accordingly no consultation is considered necessary.
- 3.1.2. The Applicant has engaged informally with certain statutory stakeholders in respect of Changes 1 to 8 as described in the Notification of Change Request [AS-061]. This included Virtual meetings were held with the Joint Councils, Natural England, the Environment Agency and National Highways, week commencing 8 July 2024.
- 3.1.3. In respect of Change 8, the Applicant has engaged with the landowners affected by the proposed upgrade in rights over the Hedgerow Plots and the National Highways' Plots, as summarised below.
- 3.1.4. In respect of the National Highways plots, the Applicant has been engaging with National Highways in relation to the Scheme. This has culminated in a set of acquisition principles to be applied to land within which National Highways have an interest. These establish the approach to be taken when National Highways' interests are not registered and the application of these agreed principles has led to the changes the Applicant is seeking to make. No other non-statutory consultation has been necessary as this has been a specific point relating to National Highways.
- 3.1.5. In respect of the Hedgerow plots, the change only affects two related interested parties (Robert Hitchens Limited and Gloucester Land Company). The Applicant has been engaging with Robert Hitchens Limited on behalf of both parties since the early development of the Scheme. This engagement and the ongoing negotiations have included the requirement for Hedgerow H48 and the need for the change application. The Applicant is continuing the negotiations to obtain voluntary agreement for all land and rights required and will be including the rights associated with H48.

3.2. Statutory Consultation

CA Regulations

- 3.2.1. Regulation 4 of the CA Regulations states that the consultation and other procedural requirements of the regulations 5 to 19 will apply where: (a) it is proposed to include in an order granting development consent a provision authorising the compulsory acquisition of additional land, and (b) a person with an interest in the additional land does not consent to the inclusion of the provision.
- 3.2.2. Regulations 5 to 19 of the CA Regulations will therefore apply to this Change Application because (a) it is proposed to upgrade the compulsory acquisition powers sought over the

Hedgerow Plots and National Highways Plots, and (b) written consent of the affected landowners in respect of those plots has only been obtained from National Highways.

- 3.2.3. The Applicant confirms that the procedure under regulations 5 to 19 of the CA Regulations can be accommodated within the examination timetable. A proposed timetable for this procedure is included in Table 1 in section 4 of this document.

Consultees

- 3.2.4. In accordance with the CA Regulations, a targeted statutory consultation with all persons who persons who would be affected by the above change and are prescribed under Regulation 7(1) of the CA Regulations and Section 42 (a) to (d) of the Planning Act 2008 is proposed to be undertaken from **26th September 2024 to 25th October 2024**.
- 3.2.5. Further to the ExA's Rule 9 Letter, the Applicant has brought forward this consultation period by 1 week, to end on 25 October 2024 instead of 1 November 2024. This is to provide more time for the initial assessment of issues by the ExA and any consequential amendments to the Examination timetable to examine Change 8.
- 3.2.6. If Change Application 1 is accepted by the ExA, the Applicant will issue notices containing the particulars set out in regulation 7(2) of the CA Regulations including the 25 October 2024 deadline for submission of relevant representations about the Hedgerow Plots and the National Highways' Plots.

Consultation Publicity

- 3.2.7. If Change Application 1 is accepted by the ExA, the Applicant will publish notices of the proposed changes in accordance with regulation 8 of the CA Regulations.
- 3.2.8. The Applicant proposes to publish notices containing the particulars set out in regulation 8(2) for two successive weeks in two local newspapers – the Gloucestershire Echo and the Gloucestershire Citizen - on **19 September 2024 and 26 September 2024**.
- 3.2.9. The Applicant also proposes to publish notice once in a national newspaper – the Times – and once in the London Gazette. These publications will coincide with the local publications proposed above, and all publications will confirm the deadline for receipt by the Applicant of relevant representations by 25 October 2024, as for the notices of targeted consultation described above.
- 3.2.10. The Applicant proposes to send details of the change to Statutory Bodies and affected Interested Parties. For any other persons interested in the change, the Applicant proposes to publish details of the change on the Applicant's website (<https://www.gloucestershire.gov.uk/highways/major-projects-list/m5-junction-10-improvements-scheme/>). Any person who has any queries or wishing to respond to the consultation should do so in writing to: m5junction10@atkinsrealis.com
- 3.2.11. The Applicant proposes to post site notices on Stanboro Lane and A4019 near the current entrance to the Robert Hitchens Ltd Land.
- 3.2.12. As soon as possible after, and within 10 working days of, the expiry of the statutory consultation period on 25 October 2024, the Applicant will provide to the ExA the prescribed forms of notice and certificate of compliance as required by regulation 9 of the CA Regulations.

Consultation Statement

- 3.2.13. As required by Step 4 of the Change Application Guidance and advised by the ExA's Rule 9 Letter, the Applicant will produce a Consultation Statement that incorporates the distribution list of those persons consulted, newspaper notices, site notices, notice letters and consultation responses for intended submission to the Examining Authority by 15th November 2024.

3.2.14. The Consultation Statement will:

- List the persons (affected by the changes) under section 42 (a) to (d) who have been consulted (identifying particularly any new persons i.e. those who were consulted in relation to the proposed change but not in relation to the original application);
- Identify (within the list) those section 42 (d) persons who are “affected persons”, meaning those persons over whose land Compulsory Acquisition powers will be exercised. It is noted that as the CA Regulations are engaged the Applicant will also need to update the details in respect of the affected land;
- Provide justification as to why any person under section 42 (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any);
- Provide copies of any newspaper notices or site notices; and
- Append as an annex any consultation responses received.

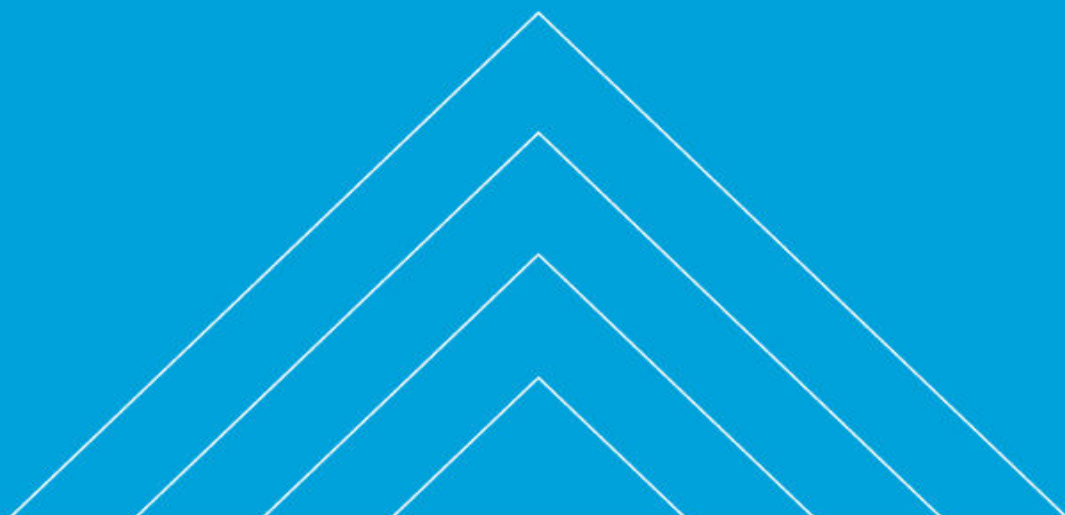
4. Conclusion and formal request for proposed change to be made

- 4.1.1. The changes proposed by the Applicant in relation to Change 8, as applied for in Change Application 1, are to upgrade land rights over several plots within the Order limits of the Scheme to enable dormice mitigation agreed with Natural England and to address the Applicant's engagement with National Highways. The Applicant has obtained written consent from National Highways as landowner of the National Highways Plots and continues to engage with the affected landowner of the Hedgerow Plots with the intention of acquiring the land (and therefore the necessary rights) by voluntary agreement.
- 4.1.2. The Applicant submits that the changes proposed in Change Application 1 should be accepted by the ExA as a non-material change and without further non-statutory consultation, subject to the application of regulations 5 to 19 of CA Regulations.
- 4.1.3. The ExA is asked to accept Change 8 on the basis that it:
- (i) is minor in nature;
 - (ii) is all within the Order limits;
 - (iii) does not change the environmental impacts of the Scheme; and
 - (iv) the procedure required by regulations 5 to 19 of the CA Regulations can be accommodated within the examination timetable, as set out in Table 1.
- 4.1.4. A detailed indicative programme for progressing the change to the DCO application through the DCO process is provided in Table 1 below:

Table 1 – Indicative programme

Procedure	Deadline
ExA decision on acceptance of change request	17 September 2024
Notice to affected persons	19 September 2024
First newspaper notice	19 September 2024
Second newspaper notice (consultation period commences)	26 September 2024
Deadline for relevant representations	25 October 2024
Applicant to certify compliance with CA Regulations	28 October 2024
ExA to make initial assessment of issues including meeting (if required)	29 October 2024
ExA to set timetable for examining proposed change	30 October 2024
Issue of written questions by ExA	30 October 2024
Notification of Issue Specific (ISH), Compulsory Acquisition (CAH) or Open Floor (OFH) hearings by ExA (if required)	30 October 2024
Deadline for written representations and responses to written questions	5 November 2024
Date for responses to written representations and comments on responses to written questions	12 November 2024
Change ISH, CAH or OFH date (if required)	20 November 2024
Deadline for post hearing submissions	2 December 2024 (Deadline 10)

Appendices



Appendix A.

A.1. Change Application Compliance Table

Reference	Requirement	Details of Compliance
<p>Nationally Significant Infrastructure Projects: Changes to an application after it has been accepted for examination (8 August 2024)</p> <p>Process for requesting a change to an application</p>		
Step 1 – The change notification	The applicant decides to request a change to an application which has already been accepted for examination (during the pre-examination or examination stage) and informs the Examining Authority in writing. This is known as the 'change notification'.	Change Notification submitted on 12 th August 2024.
Step 2 – Advice from the Examining Authority	After considering the change notification the Examining Authority will provide advice to the applicant about the procedural implications of the proposed change. This includes the need, scale, and nature of consultation that the applicant should undertake before formally submitting the change application. The Examining Authority will advise if any consultation the applicant has already carried out is adequate.	The ExA provided advice to the Applicant in the Rule 9 Letter dated 21 st August 2024. The Applicant's consideration of this advice is detailed in further down in this table.
Step 3 – The applicant consults about the proposed change	<p>The applicant should carry out appropriate consultation about the proposed change. This step may be carried out earlier, before the change notification, to potentially save time and inform the applicant's approach to the change application. However, the Examining Authority may consider that further consultation is required (Step 2).</p> <p>The applicant should consult all those persons prescribed under section 42(1)(a) to (d) of the Planning Act 2008 who would be affected by the proposed change, giving a minimum of 28 days from receipt of the information about the proposed change for responses.</p>	<p>As set out in section 3.1 of this Summary Report, the Applicant considers that extensive non-statutory consultation in respect of Change 8 is not appropriate or necessary.</p> <p>Prior to submission of Change Application 1, the Applicant has engaged with the landowners affected by the proposed upgrade in rights over the Hedgerow Plots and the National Highways' Plots, as summarised in paragraphs 3.1.4 and 3.1.5 above.</p> <p>The Applicant proposes to carry out statutory consultation in accordance with the CA Regulations from 26th September 2024 to 25th October 2024.</p>

Reference	Requirement	Details of Compliance
	<p>If a targeted approach to the identification of those affected by the proposed change is adopted then detailed justification should be provided about why the applicant considers it is not necessary to consult all the prescribed persons. For example, the proposed change would not affect the functions of statutory undertakers.</p> <p>If applicable, the applicant should identify any newly prescribed persons that have been consulted in relation to the proposed change but were not consulted in relation to the original application.</p>	
Step 4 – The change application	The applicant makes a formal request to the Examining Authority to change the application by providing the relevant information.	This Summary Report forms part of the Change Application submitted by the Applicant on 4 th September 2024. Inclusion of the relevant information is set out further below in this table.
Step 5 - The Examining Authority decides whether to accept or reject the change application	<p>The Examining Authority will consider the applicant's change application, the consultation responses and any other representations made and decide whether to accept and examine the changed application or reject the proposed change.</p> <p>The Examining Authority must notify interested parties of any decision to accept or reject a change application. If the change application is accepted the Examining Authority will confirm how it will be examined. Their procedural decision will be published on the project information page of the Find a National Infrastructure Project website. Where the Examining Authority has decided to reject the change application the applicant will need to decide how to proceed..</p>	This step is for the ExA.
Step 6 – The changed application	Where the Examining Authority has decided to accept the change application, the examination will proceed by considering the 'changed application'. The changed application is the original application as it has been changed by the accepted change application.	This step will be completed after there is a decision on Change Application 1.
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Reference	Requirement	Details of Compliance
Information to include in the change application		
Point 1	A confirmed description of the proposed change. Where this has changed from that provided with the change notification this should be clearly explained.	Included in Chapter 2 of this Summary Report.
Point 2	A confirmed statement setting out the reasons and need for making the change. The applicant should provide any further information that was not included in the change notification.	Included in Chapter 2 of this Summary Report
Point 3	A full schedule of all application documents and plans listing the revisions to each document and plan which would occur because of the change or, as necessary, marked as 'no change'.	Schedule of Changes to DCO Application Documents for Change Application 1 [TR010063/APP/10.4].
Point 4	A statement identifying any impact the proposed change would have on securing any consents or licences for the project. The applicant should confirm if there would be any delay in securing these before the close of the examination.	Included in paragraph 2.1.24 of this Summary Report.
Point 5	Clean and track changed versions of the draft DCO showing the proposed changes. Also, clean and track changed versions of the draft explanatory memorandum. If updated versions of these have been submitted into the examination during the pre-examination or examination stage the applicant should check with the Examining Authority which versions should be used for this purpose.	<p>Clean and tracked-change versions of the dDCO have been provided with the Change Application 1: [TR010063/APP/10.7] and [TR010063/APP/10.8]</p> <p>The changes to the dDCO submitted with the Change Application 1 have been made to the most recent clean and tracked versions of dDCO submitted into the Examination at Deadline 4.</p> <p>For completeness, the Applicant has also provided a clean copy of the Explanatory Memorandum with the Change Application 1 [TR010063/APP/10.9] to ease review of the dDCO. However, as no changes to the Explanatory Memorandum are required for Change Application 1, the Applicant has not provided a tracked changed version.</p>

Reference	Requirement	Details of Compliance
Point 6	<p>If the proposed change includes a request to include additional compulsory acquisition powers, confirmation that the applicant has consent from all persons with an interest in the additional land that the additional powers can be included in the application. Evidence of the consent must be provided. If the applicant has not obtained consent, they must provide the information prescribed by regulation 5 of the CA Regulations:</p> <ul style="list-style-type: none"> • A supplement to the Book of Reference • A land plan identifying the additional land, or the land affected by the proposed provision of additional compulsory acquisition (clean and track-changed version from the latest version of the land plans submitted to the examination) • A statement of reasons as to why the additional land is required • A statement indicating how it is proposed to fund acquisition of the additional land (a funding statement) <p>The applicant should provide a supplemental land rights tracker giving details of the status of negotiations about the additional land. The applicant should also include a detailed description of how they consider the procedures in regulations 6 to 19 of the CA Regulations can be accommodated within the examination timetable.</p>	<p>As set out in Section 2 of this Summary Report, the Applicant confirms that landowner consent for the proposed changes has been obtained in respect of the National Highways Plots but is outstanding in respect of the Hedgerow Plots. Accordingly, the CA Regulations apply.</p> <p>The Applicant has therefore provided with Change Application 1 the following documents:</p> <ol style="list-style-type: none"> (1) Tracked-change version of the Change Application 1 Book of Reference together with a Change Log: [TR010063/APP/10.11], and [TR010063/APP/10.12] (2) Land plans for Change Application 1 [TR010063/APP/10.6]. (3) Tracked-change version of the Statement of Reasons to reflect Change Application 1 [TR010063/APP/10.10] (4) A statement as to how the proposed changes will be funded is included in Section 2 of this Summary Report. (5) An addendum to the Land Rights Tracker [TR010063/APP/10.5]. (6) A detailed description of and proposed timetable for the accommodation of the procedures in regulations 5 to 19 of the CA Regulations within the examination timetable is included in Sections 3 and 4 of this Change Report.
Point 7	<p>If the proposed change results in any new or different likely significant environmental effects, provision of other environmental information as necessary and confirmation that:</p> <ul style="list-style-type: none"> • the effects of the proposed change have been adequately assessed and that the environmental information has been subject to publicity. Whilst this is not a statutory requirement, the publicity should 	<p>As set out in Section 2 of this Summary Report, Change 8 will not result in any new or different environmental effects and no changes to the Environment Statement or further environmental assessment are required to support Change Application 1.</p>

Reference	Requirement	Details of Compliance
	<p>reflect the requirements of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations 2017)</p> <ul style="list-style-type: none"> any consultation bodies who might have an interest in the proposed change have been consulted (reflecting the requirements of the EIA Regulations 2017). The applicant should identify those consultation bodies who were consulted on the proposed changes but were not consulted on the original application 	
Point 8	<p>Where consultation has been carried out (either voluntarily, at the direction of the Examining Authority, or in accordance with the requirements of the CA Regulations or EIA Regulations 2017) a consultation report must be provided. The consultation report should:</p> <ul style="list-style-type: none"> confirm who has been consulted in relation to the proposed change and explain how and why they have been consulted include details of how the applicant has considered the content of the consultation responses received include copies of all consultation responses received, including any responses to publicity about the proposed change. These should be included as an annex to the consultation report. 	<p>As set out in Section 3.2 of this Summary Report and as advised by the ExA's Rule 9 Letter, the Applicant will produce a Consultation Statement following completion of the statutory consultation under the CA Regulations for intended submission to the Examining Authority by 15th November 2024.</p>
Additional advice from the ExA's Rule 9 Letter		
Materiality of the proposed change	<p>It is not clear from what has been set out so far whether the Applicant has the written consent from all of those parties with land interests to the changes proposed. The Applicant should therefore make clear how the procedures under Regulation 5 to 19 of the CA Regulations could be accommodated within the examination timetable.</p>	<p>As set out in Section 2 of this Summary Report, the Applicant confirms that landowner consent for the proposed changes has been obtained in respect of the National Highways Plots but is outstanding in respect of the Hedgerow Plots. Accordingly, the CA Regulations apply.</p>

Reference	Requirement	Details of Compliance
	The Applicant has not made any comment as to whether there would be any change as to land of which Temporary Possession (TP) is sought and this should be clarified.	<p>A detailed description of, and proposed timetable for, the accommodation of the procedures in regulations 5 to 19 of the CA Regulations within the examination timetable is included in Sections 3 and 4 of this Change Report.</p> <p>As set out in Section 2 of this Summary Report, Change 8 comprises an upgrade of rights over the Hedgerow Plots and the National Highways Plots which are currently included in the dDCO as temporary possession only. Change Application 1 seeks the upgrade of these plots to temporary possession and acquisition of rights.</p>
Materiality of the proposed change	<p>On receipt of the formal change request, such factors may lead the ExA to conclude that the changes taken together are material. This means that before accepting the material changes for Examination, the ExA will need to have the following information provided with the change request:</p> <ul style="list-style-type: none"> • the information identified in the latest guidance set out under Step 1 – The Change Notification, Information to include in a change notification; • if landowner consent is not received and the CA Regulations are engaged, the information prescribed by Regulation 5 of the CA Regulations and clarification that the procedural requirements of the CA Regulations can be met; and • evidence that any new or different environmental effects have been adequately assessed, subject to publicity and that any consultation bodies have been consulted. 	<p>The Applicant confirms that the requested information is provided within the Notification of Change Request [AS-061] and the documents submitted for Change Application 1 on 4th September 2024 including this Summary Report.</p> <p>Please refer to the above sections of this table which summarise the Applicant's compliance with the updated Change Application Guidance.</p>
Materiality of the proposed change	The Applicant is also advised that it is, of course, possible that the ExA may consider one or more proposed change is acceptable as a change (whether or not material), but another or others not. The Applicant is therefore asked to consider the interdependence of these with each other.	As set out in the Change Application 1 Cover Letter and Section 1 of this Summary Report, the Applicant considers that Change 8 can be considered independently of Changes 1 to 7 and therefore the Applicant will submit a separate Change Application in respect of Changes 1 to 7.

Reference	Requirement	Details of Compliance
Consultation	<p>It is not clear to the ExA why this would not commence until around 2 October 2024, but if the consultation period cannot commence earlier than this date, it appears that the Examination Timetable may need to be adjusted to accommodate each of the steps necessitated by the CA Regulations.</p> <p>In these circumstances the Applicant should consider if it is possible to bring forward the consultation period as it appears that otherwise it may not be possible to accommodate either the necessary time to notify of hearings, or for the time allowed for Affected Parties to request hearings to be held.</p> <p>As such it is clear that the Applicant will need to set out how it anticipates the procedures under regulations 6 to 19 of the CA Regulations could be accommodated within the examination timetable.</p>	<p>The Applicant confirms that the timetable for the steps required by the CA Regulations as first proposed in the Notification of Change Request [AS-061] has been amended for Change Application 1.</p> <p>The revised timetable proposed in Section 4 of this Summary Report brings forward the start date of statutory consultation from 2 October to 26 September 2024. The end of the consultation period therefore moves from 1 November to 25 October 2024.</p> <p>As set out in the amended timetable, the Applicant would certify compliance with the CA Regulations on 28 October and then request the ExA to publish an updated Examination timetable by 30 October 2024 including a compulsory acquisition hearing and open floor hearing on or after 20 November 2024.</p> <p>This timetabling would enable the ExA to give 21 days' notice to each additional affected person and each additional interested person of (a) the deadline by which that person must notify the ExA of their wish to be heard at the hearings, and (b) the date, time and place fixed for the hearings, as required by regulations 15 and 16 of the CA Regulations.</p> <p>The Applicant submits that, on this basis, the procedures under regulations 5 to 19 of the CA Regulations can be accommodated in the examination timetable.</p>
Consultation	<p>The ExA agrees that the consultation must engage all those persons identified in the Planning Act 2008 under section 42 (a) to (d) who would be affected by the proposed changes (giving a minimum of 28 days) including any section 42 persons not originally consulted on the application but who may now be affected by the proposed changes.</p>	<p>The Applicant's approach to statutory consultation under the CA Regulations is set out in Section 3.2 of this Summary Report.</p>

Reference	Requirement	Details of Compliance
	<p>The Applicant also proposes, and the ExA agrees, that the public should be consulted through formal notification and publication in appropriate newspapers. The ExA also agrees that site notices should be posted. The ExA consider the Applicant should ensure that access to physical documents is available for those who are unable to access material online</p>	
Consultation	<p>The Applicant should submit a Consultation Statement, and the ExA recommends that this:</p> <ul style="list-style-type: none"> • lists the persons (affected by the changes) under section 42 (a) to (d) who have been consulted (identifying particularly any new persons i.e. those who were consulted in relation to the proposed change but not in relation to the original application); • identifies (within the above list) those section 42 (d) persons who are “affected persons”, meaning those persons over whose land Compulsory Acquisition powers will be exercised. <p>It is noted that as the CA Regulations are engaged the Applicant will also need to update the details in respect of the affected land;</p> <ul style="list-style-type: none"> • provides justification as to why any person under section 42 (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any); • provides copies of any newspaper notices or site notices; and • appends as an annex any consultation responses received. 	<p>As set out in Section 3.2 of this Summary Report, the Applicant will produce a Consultation Statement following completion of the statutory consultation under the CA Regulations for intended submission to the Examining Authority by 15th November 2024. The Consultation Statement will cover the particulars advised by the ExA and those prescribed by Stage 4 of the Change Application Guidance.</p>
Timing Implications	<p>The Applicant, in Section 7 of the Notification letter, identifies an indicative programme setting out a number of the steps to be undertaken with consultation ending on 1 November and a further 14 days for the Applicant to provide an updated Consultation Report.</p>	<p>As set out above in relation to the ExA’s advice concerning consultation, the revised timetable proposed in Section 4 of this Summary Report brings forward the statutory consultation period to end on 25 October 2024.</p> <p>The Applicant proposes to certify compliance with the CA Regulations on 28 October and then request the ExA to publish an updated Examination timetable by 30 October 2024.</p>

Reference	Requirement	Details of Compliance
	This would currently not appear to recognise that if the CA Regs are engaged, as appears to be accepted, that while a period to allow Relevant Representations would run until 1 November (Regulation 7), the ExA would then need to consider if a further assessment of issues would need to be undertaken (Regulation 11), and then subsequently consider how this should be examined.	The Applicant acknowledges that the proposed timetable includes a shorter period for the ExA to make an initial assessment of issues following the closure of consultation (on 25 th October) than the 21-day allowance in regulation 11 of the CA Regulations. The Applicant hopes that a full 21-day period will not be required due to the nature of Change 8 only involving upgrades to rights over existing land plots affecting three landowners, one of whom (National Highways) has consented to the rights upgrade.
Timing Implications	<p>Each of these elements then allows for Interested Parties or Affected Persons to request a further Open Floor Hearing (OFH) or Compulsory Acquisition Hearing (CAH) and a period of 21 days would be required for people to consider whether this should be requested.</p> <p>In the event that a hearing was requested appropriate notice periods of those hearings would then need to be accommodated (Regulations 15 and 16).</p>	<p>As set out above in relation to the ExA's advice concerning consultation, the Applicant would request the ExA to publish an updated Examination timetable by 30 October 2024 including a compulsory acquisition hearing and open floor hearing on or after 20 November 2024.</p> <p>This timetabling would enable the ExA to give 21 days' notice to each additional affected person and each additional interested person of (a) the deadline by which that person must notify the ExA of their wish to be heard at the hearings, and (b) the date, time and place fixed for the hearings, as required by regulations 15 and 16 of the CA Regulations. It is proposed for the notice of (a) and (b) to be provided concurrently.</p>
Timing Implications	In addition to these constraints, the Applicant would need to provide Certification that they had undertaken the appropriate consultation and notification. It is not apparent whether or where this is included within your current schedule. The ExA are unlikely to be able to commence with issuing a Rule 8(3) letter amending the examination timetable (which appears to be needed based the current understanding of the proposed changes) in advance of this.	The Applicant confirms that the Applicant proposes to certify compliance with the CA Regulations in accordance with regulation 9 by 28 October, as set out in the Sections 3 and 4 of this Summary Report. The Applicant would then request the ExA to publish a Rule 8(3) Letter on 30 October 2024.

Reference	Requirement	Details of Compliance
	The ExA cannot stress enough the importance of meeting the above-mentioned timescales and, whilst ensuring the consultation still comply with the CA Regulations, the importance of submitting the Certificates of Compliance, as required by Regulation 9 of the CA Regulations, promptly after the close of the consultation period (ie as early as possible the day after the close of the consultation period) and significantly earlier than the 10 working days allowed. Failure to submit the Certificates of Compliance promptly following the close of the consultation period may make it impossible to facilitate hearings in line with the necessary notice periods.	
Timing Implications	<p>Even, in the event that the Rule 8(3) letter confirms that there has been no change to the identified issues to be examined, it still must facilitate the provision to allow the request for OFH or CAH.</p> <p>There appears to be a very limited window where meeting the obligations of the Regulations coincides with the current schedule indicated, should the consultation period end in November as currently specified. The letter indicates that the Applicant considers there are two days of hearings available, it will be important to clarify where this could be accommodated, as currently this is not clear how these might be achieved</p>	As explained above, the Applicant's proposal is for a Rule 8(3) letter issued on 30 October to timetable an OFH and CAH on or after 20 November. This timetabling would enable the ExA to give 21 days' notice to each additional affected person and each additional interested person of (a) the deadline by which that person must notify the ExA of their wish to be heard at the hearings, and (b) the date, time and place fixed for the hearings, as required by regulations 15 and 16 of the CA Regulations.

Reference	Requirement	Details of Compliance
Timing Implications	The Applicant is therefore asked to ensure that all documentation submitted to support the change request is submitted as a discrete and separate contained set of information with each document clearly identified in both the document heading and the file name as relating to the change request. If this documentation is provided alongside other changes to the Application that would otherwise be forthcoming those other changes to the original documentation not including the proposed changes as a result of the change request should also be submitted as separate versions and identified as such.	The Applicant has adopted the advised approach to the submission of documents at Deadline 4 including documents relating specifically to Change Application 1.

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