



Kayla Marks
Head of the Transport Infrastructure
Planning Unit
Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR

Email: transportinfrastructure@dft.gov.uk

Gloucestershire County Council

Major Projects, Highways Commissioning Block 5

Floor 5

Shire Hall

Gloucester

GL1 2TH

Web Site: www.gov.uk/dft

4 June 2025

Dear Sir/Madam,

PLANNING ACT 2008

APPLICATION FOR THE M5 JUNCTION 10 DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to:
 - The report dated 4 March 2025 of the Examining Authority ("ExA") comprised of Edwin Maund MSc, BA(Hons), Dip UP, MRTPI and Luke Regan MSc, CMILT who conducted an Examination into the application made by Gloucestershire County Council ("the Applicant") for the M5 Junction 10 Development Consent Order ("the Application") under section 37 of the Planning Act 2008 as amended ("the 2008 Act");
 - The responses to the further consultations undertaken by the Secretary of State following the close of the Examination; and
 - Late representations received by the Secretary of State following the close of the Examination.
2. Published alongside this letter on the Planning Inspectorate's website is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the Report"). All "ER" references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form "ER XX.XX.XX" as appropriate. References to 'requirements' are to those in Schedule 2 to the Order recommended by the ExA at Appendix D to the Report.
3. This decision was delegated by the Secretary of State to the Minister of State, Lord Hendy of Richmond Hill. While this decision has not been taken by the

Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Minister of State acting on behalf of the Secretary of State.

THE APPLICATION

4. The Application was accepted for Examination on 16 January 2024 [ER 1.1.1]. The Examination began on 4 June 2024 and was completed on 4 December 2024 [ER 1.4.3]. The Examination was conducted based on written and oral submissions submitted to the ExA and by a series of hearings. The ExA also undertook an accompanied site inspection and two unaccompanied site inspections [ER 1.4.12 - 1.4.19].
5. The location of the Application is within the County of Gloucestershire and within the administrative areas of Gloucestershire County Council ("GCC"), Cheltenham Borough Council ("CBC") and Tewkesbury Borough Council ("TBC"). Together, these authorities comprise the Joint Councils ("JC") [ER 1.4.1].
6. The Development Consent Order as applied for, would grant development consent for alterations to the existing motorway junction 10 on the M5; the widening of the A4019 to a two-lane carriageway from Withybridge Lane to the Gallagher Retail Park; and the construction of a new West Cheltenham Link Road ("the Link Road") between the A4019 and the B4634, together with associated works [ER 1.3.8]. The works comprising the three key elements of the scheme are summarised at ER 1.3.10 and are collectively referred to as "the Proposed Development" within this letter.

CHANGES TO THE APPLICATION

7. During the Examination, the Applicant made two formal change requests in respect of the Proposed Development on 4 September 2024 and 1 October 2024. The changes sought within these requests were to allow for an amendment to the land rights (and therefore Land Plans) to allow for more efficient maintenance of the proposed hedgerow mitigation and to allow for changes associated with the new Link Road including vertical alignment, replacement of swales with filter drain, replacement of box culverts with bridges, the structural form of the River Chelt bridge and to allow for relocation of National Roads Telecommunication Service Transmission Station, Flood storage area reconfiguration, and the infill of the existing northbound on-slip loop [ER 1.5.5 – 1.5.6]. The Secretary of State agrees with the ExA's acceptance of these change requests and agrees they do not constitute a material change to the development nor do the proposed changes, either individually or cumulatively, lead to the project being different in nature or substance to that which was originally applied for [ER 1.5.7 – 1.5.8]. The Secretary of State notes that there were no material or non-material changes sought during the Examination in relation to compulsory acquisition or temporary possession of land. The change applications confirmed that all of the land required was within the existing Order limits and Order Land for the Proposed Development. The ExA accepted the changes and subsequently considered their compliance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, which is set out in the Land Rights section of this letter [ER 6.3.3 - 6.3.7].

8. In addition, the Applicant made several changes to key Application documents to reflect discussions and agreements that had occurred during the Examination. The Secretary of State is satisfied that the changes to the Application documents and any additional information submitted are contained within the 'Guide to the Application Document' which provides a full record of all documentation submitted into the Examination Library [ER 1.5.1 - 1.5.2]. She has had regard to this information in making her determination on the Application.

SUMMARY OF EXA'S RECOMMENDATION

9. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings:
 - The Need Case
 - Alternatives
 - Traffic and Transport
 - Green Belt
 - Air Quality
 - Biodiversity and Ecology
 - Flood Risk, Drainage and Water Environment
 - Historic Environment
 - Landscape and Visual
 - Noise and Vibration
 - Other Matters (including consideration of Climate, Geology and Soils, Minerals and Waste, Population and Human Health, Socio-Economics and Good Design)
 - Assessment of Cumulative Effects
 - Habitats Regulations Assessment
 - Compulsory Acquisition and Related Matters
 - Draft Development Consent Order and Related Matters.
10. For the reasons set out in the Report, the ExA recommended that the Secretary of State should make an Order granting development consent for the Proposed Development in the form recommended at Appendix D to their Report, subject to the outstanding matters relating to Crown Land and to the revised National Planning Policy Framework [ER 8.3.1].

SUMMARY OF SECRETARY OF STATE'S DECISION

11. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in this Application. The letter is the statement of reasons for the Secretary of State's

decision for the purposes of section 116 of the 2008 Act and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”).

12. The Secretary of State has also had regard to the environmental information associated with this Proposed Development as defined in regulation 3(1) of the 2017 Regulations. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

SECRETARY OF STATE’S CONSIDERATIONS

13. The Secretary of State’s consideration of the Report, responses to her consultations of 21 March 2025 and 1 May 2025, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses and late representations are not otherwise mentioned in this letter, it is the Secretary of State’s view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion or decision on the Order.
14. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations as set out in the Report and the reasons given for the Secretary of State’s decision are those given by the ExA in support of the conclusions and recommendations.

Preliminary Matters

15. The Secretary of State agrees with the ExA that the Proposed Development is a Nationally Significant Infrastructure Project in accordance with section 14(1)(h) and section 22(1)(b), (3) and (4) of the 2008 Act [ER 1.1.3]. She is also content that section 104 of the 2008 Act has effect, which means the Secretary of State must determine the Application with regard to any relevant National Policy Statement, any Local Impact Report (“LIR”) received, any matters prescribed in relation to development of the description to which the Application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision [ER 2.2.6].
16. For the avoidance of doubt, the Secretary of State has had regard to and agrees with the ExA’s assessment of the relevant legislation and the national policy statements identified in ER 2.2.1 - 2.3.9, and the other important and relevant Government policies and strategies identified and taken into account by the ExA within Chapter 2 of the Report. The Secretary of State has also had regard to the LIR prepared by the JC [ER 2.5.1].
17. The Secretary of State notes that the Application was accepted for Examination prior to the designation of the revised National Policy Statement for National Networks (“NPSNN”) in May 2024. The Secretary of State agrees with the ExA and is satisfied that the 2015 NPSNN continues to have effect for this Application [ER 2.2.4]. Nonetheless, as recognised in paragraph 1.17 of the revised NPSNN, any National Policy Statement which is designated but does not have effect is

potentially capable of being important and relevant in the decision-making process. Being mindful of this and of the timing between this Application and the transition period of the NPSNNs, the Secretary of State has also taken relevant account of the revised NPSNN designated in May 2024. However, within this letter, all references are to the 2015 NPSNN unless clearly stated otherwise.

18. The Secretary of State is additionally aware that a new version of the National Planning Policy Framework (“NPPF”) was published in December 2024. She has also noted the ExA’s recommendation at ER 8.2.20 that the Secretary of State may wish to satisfy herself with regards to any material changes resulting from the revised NPPF, given its publication was during the recommendation period. The Secretary of State has considered the policies in the updated NPPF and considers that the modifications do not materially affect the policy in the NPPF published 19 December 2023 in relation to her consideration of this Application. The Secretary of State considers that the updated NPPF does not alter her conclusions or lead to a different outcome in this case. She is therefore satisfied that the ExA’s consideration of the NPPF and any references to it in their Report and in this letter are to the NPPF published 19 December 2023.
19. The Secretary of State has considered the environmental information associated with this Proposed Development as defined in regulation 3(1) of the 2017 Regulations. Having considered the Applicant’s Environmental Statement (“ES”) and further environmental information provided, the Secretary of State considers that this information will be sufficient to enable her to reach the conclusions drawn in this letter in compliance with the requirements of the 2017 Regulations and that changes made by the Applicant to the ES documentation and the two change requests do not individually or cumulatively undermine the original scope and assessment of the ES [ER 2.6.3 – 2.6.4]. Furthermore, as the Scoping Report did not identify any likely significant effects on another European Economic Area member state, the Secretary of State is satisfied that transboundary effects do not need to be considered further with regard to the ES [ER 2.8.1 – 2.8.3].

Agreed Matters

20. The Secretary of State has carefully considered the matters listed immediately below. Based on the ExA’s report, its findings, conclusions and all relevant information submitted either as part of the Application or during the Examination or thereafter, she agrees with the ExA’s conclusions and recommended weighting for each listed matter. Her agreement in relation to these matters includes the interpretation and application of the policy tests made by the ExA, particularly in relation to the NPSNN and NPPF.

- Alternatives - neutral weight [ER 5.2.8];
- Traffic and Transport - great positive weight [ER 5.2.12];
- Air Quality - a little positive weight [ER 5.2.20];
- Biodiversity and Ecology - moderate positive weight [ER 5.2.23];
- Flood Risk, Drainage and Water Environment - a little negative weight [ER 5.2.30]; and

- Other Planning Matters, which includes consideration of Climate, Geology and Soils, Minerals and Waste, Population and Human Health, Socio-Economics and Good Design - all matters are neutral weight [ER 5.2.47 – 5.2.49] with the exception of Socio-Economics which is ascribed moderate positive weight [ER 3.12.120].
21. Therefore, in the planning balance, the Secretary of State has applied the same weight to these matters as the ExA for the same reasons set out in the relevant sections of the Report. This being the case, these matters do not require additional consideration within this letter, and the Secretary of State invites parties to refer to the relevant sections of the Report in relation to these matters.
22. The paragraphs below set out the matters where the Secretary of State has further comments, those matters on which further information has been sought, or those where she either disagrees with, or wishes to qualify her views compared to those expressed by the ExA.

The Need Case

23. The Applicant's assessment of the need for the Proposed Development is outlined in Section 3 of the Planning Statement [ER 3.2.23] and the five objectives are set out by the ExA at ER 3.2.27. The Applicant states that the Proposed Development would improve traffic flows across Cheltenham as well as supporting growth in economic development and housing, as identified in the Joint Core Strategy [ER 3.2.25 - 3.2.26], which the current highway network would not be able to accommodate and can only be achieved through all elements of the development as proposed [ER 3.2.31]. The Secretary of State notes that ER 3.2.32 - 3.2.38 outlines the Applicant's conclusions on the need case and how these accord with local and national policies as well as Government strategies. The ExA highlighted the following issues for consideration in the Examination:
- Support in principle;
 - Policy positions relative to strategic need and local need;
 - Support in principle but objection to approach; and
 - Objection in principle [ER 3.2.41].
24. The Secretary of State has considered the findings of the ExA in respect of the above issues and is primarily in agreement with the conclusions reached. She has additionally noted the position of the JC, who are supportive of what they regard as the significant need case for the Proposed Development [ER 3.2.65]. The Secretary of State agrees with the ExA that the Proposed Development would meet the objectives set out by the Applicant [ER 3.2.69]. Like the ExA, she acknowledges that the NPSNN is clear about the need to improve the Strategic Road Network [ER 3.2.84], and when specifically considering paragraph 2.10 of the NPSNN, the Secretary of State agrees with the ExA that the Applicant has demonstrated a compelling case for development of the M5 Junction 10, both as part of the Strategic Road Network and facilitating access to it through improving the local road network [ER 3.2.86 - 3.2.87]. The ExA considers that this should attract great positive weight in favour of the Order being made [ER 3.2.87]. The Secretary of State concurs.

25. However, in the ExA's consideration of the local policy position as outlined at ER 3.2.70 - 3.2.82, the ExA is of the view that the Applicant has overstated the need for the Proposed Development in terms of local policy (the Joint Core Strategy), as the Applicant has indicated it was needed in order to meet identified housing and employment needs established under local policy [ER 3.2.72 - 3.2.73] and had included in the need case an area of 'safeguarded' development land. As the land has not yet been allocated within the Local Plan, its extent, location and infrastructure needs are not yet known and so cannot be relied on to justify the need for this Proposed Development [ER 3.2.75 - 3.2.77]. Overall, while the ExA concluded that there is no conflict with local policy which would weigh against the granting of the Order [ER 3.2.90], it considered that the inclusion of the safeguarded land does not strengthen the Applicant's case [ER 3.2.77]. The ExA recommended that the need for the Proposed Development should attract moderate positive weight in the planning balance [ER 5.2.4].
26. As explained above, the Secretary of State is of the view that a compelling case for the Proposed Development has been demonstrated in accordance with the NPSNN [ER 5.2.3]. She particularly notes that the existing M5 Junction 10 only provides access and egress to the north, with no connectivity to the M5 south, which the Applicant states causes existing traffic to cross Cheltenham through various routes, contributing significantly to traffic flows and can cause congestion at peak times. The Secretary of State is aware that one of the aims of the Proposed Development is to resolve these current problems [ER 3.2.26]. Paragraph 2.2 of the NPSNN recognises that there is a critical need to improve the Strategic Road Network to address road congestion to provide a safe, expeditious and resilient network that better supports social and economic activity and the Secretary of State is satisfied that the Proposed Development aligns with paragraph 2.23 of the NPSNN which states that Government's wider policy is to bring forward improvements to the existing Strategic Road Network through the delivery of enhancements of the type proposed by the Applicant. The Secretary of State agrees with the ExA that the Proposed Development will create additional capacity which will support the aspirations of local policy allowing for future much needed housing and employment development [ER 3.2.90]. While she agrees with the ExA that the safeguarded land cannot be relied on to support the need case for the Proposed Development, for the reasons set out here, she disagrees with the weighting recommended by the ExA and places great positive weight in favour of the Order being made.

Historic Environment

27. The ExA's summary of the Applicant's assessment of the potential impacts on the Historic Environment can be found at ER 3.9.13 – 3.9.40. The assessment considered the impacts of the Proposed Development on a number of designated heritage assets [ER 3.9.19] and a number of non-designated heritage assets [ER 3.9.20 – 3.9.23] as well as potential impacts on archaeology [ER 3.9.27 – 3.9.33]. The ExA was satisfied that the Applicant had undertaken a proportionate and reasoned assessment of each of the heritage assets within the Proposed Development site and in areas beyond these limits where there was the potential for impacts from the construction or subsequent operation of the Proposed

Development [ER 3.9.59]. The ExA did not disagree with any of the conclusions reached by the Applicant on the assessment as to the significance of each of the assets identified [ER 3.9.60].

Impacts on Non-Designated Heritage Assets

28. The Secretary of State notes that there are several non-designated heritage assets within the study area including archaeological remains from the prehistoric and historic use of the region [ER 3.9.20 and 3.9.22 – 3.9.23]. Overall, the ExA reported that the Applicant's assessment of impacts on non-designated heritage assets as "Not Significant" had not been disputed by any of the Interested Parties and concluded that it had not been presented with any substantive evidence to disagree with this [ER 3.9.61]. While the Secretary of State agrees with this overall conclusion, the Secretary of State has considered impacts on archaeology separately below.

Designated Heritage Assets

29. The Secretary of State notes that 8 designated heritage assets have the potential to have their setting affected as a result of the Proposed Development and have been assessed at medium sensitivity apart from the Moat House Moated Site which is assessed at high [ER 3.9.33]. Chapter 11 of the Applicant's ES states that these buildings can be combined into two groups: 1) the Moat House (Moat House Moated Site) scheduled monument, Moat House (GII), Bridge and Attached Pair of Lodges at Moat House (GII), Moat Cottage (GII) and Barn circa 40 metres north-west of Moat House (GII)); and 2) those off Withybridge Lane (Butler's Court Farmhouse (GII), Cottages by Drive to Butler's Court (GII), and Withybridge Mill and Adjoining Barn (GII)) [paragraph 11.12.12].
30. The Applicant's assessment concluded that:
- the increase in noise levels from the Proposed Development would not alter the settings of the Moat House scheduled monument and its associated listed buildings in a manner that would detract for their ability to express their heritage significance, and the impact would be slight adverse [ER 3.9.37]; and
 - the introduction of the new Link Road would impact the significance of Butlers Court and Withybridge Mill as a result of changes in setting, should the infrastructure dominate the landscape to the point of being unable to appreciate the connection between the archaeological and built heritage [ER 3.9.38].
31. The Applicant considers that once all embedded and additional mitigation is complete, the Proposed Development would result in a slight adverse effect (which is not considered significant) on designated heritage assets [ES Table 11-5].

Archaeology

32. Chapter 11 of the Applicant's ES states that the known archaeological remains at the Butler's Court and Withybridge Mill designated site relate to the history and development of the Mill and therefore contributes to the historic significance of the listed buildings at this location [paragraph 11.10.9]. The ES also states that the

significance of the Moat House scheduled monument is in the archaeological remains associated with the monument, as well as earthwork structures [paragraph 11.12.13]. The Secretary of State notes that while the Proposed Development will not result in direct physical impact on these assets, as set out above there is potential for harm on the ability to appreciate the connection between the archaeological and built heritage through changes in the setting and, in the case of the Moat House scheduled monument, noise as a result of the Proposed Development [ER 3.9.37]. The Applicant concluded that landscaping, such as woodland planting on either side of the Link Road, would limit visual intrusion and light levels to aid in bat conservation which would have the benefit of protecting the assets along Withybridge Lane from light pollution. They accepted that there would be a noticeable change while the landscaping is being established but concluded that the long-term residual impact would be slight [ER 3.9.38]. The ExA noted that while the operation of the Proposed Development is not expected to have further impact on below ground archaeology, the setting of the Moat House and Withybridge Mill designated heritage assets have the potential to be affected by the introduction of the infrastructure [ER 3.9.32].

33. In addition to the six known archaeological sites identified at ER 3.9.29, which would be affected as a result in the removal of all or part of the archaeological remains during construction [ER 3.9.28], the ExA also considered that there is a potential for the loss of unknown archaeological remains identified during the surveys undertaken by the Applicant. While the Applicant has assessed this as having low to medium importance, the ExA highlighted that mitigation is required [ER 3.9.31]. The ExA considered that the Archaeological Management Plan ("AMP") secured by requirement 3 in the Order would represent an appropriate approach towards monitoring, investigating and recording any features of archaeological interest that might be encountered during construction [ER 3.9.63] and the AMP ensures appropriate mitigation measures would be secured [ER 3.9.65]. The Secretary of State notes that, in line with commitments in the Statement of Common Ground agreed between the Applicant and Historic England [Table 4-1, 19.1], that Historic England will continue to be a consulting party in the further development of the AMP through requirements 3 and 9 of the Order.
34. Overall, the Applicant concluded that no significant effects are expected once all embedded and additional measures to mitigate impacts are in place, and the Proposed Development would therefore result in less than substantial harm on the historic environment [ER 3.9.40]. The ExA reported that it has not identified any instances during the construction or operation of the Proposed Development which is likely to result in substantial harm to or loss of any heritage asset [ER 5.2.32]. However, the ExA considered that the Proposed Development would give rise to less than substantial harm to the significance of the underlying archaeology as a result of the construction phase [ER 5.2.33].
35. The ExA reports that there were no outstanding concerns regarding the Applicant's assessment methodology and predicted impacts on archaeology, and that this was an agreed matter between the Applicant and the JC, and with Historic England [ER 3.9.62].

The Secretary of State's conclusion on the Historic Environment

36. The Secretary of State agrees with the ExA that the Applicant has undertaken a proportionate and reasoned assessment of and described the significance of each of the heritage assets within the Order limits and to an appropriate distance beyond where there might potentially be an effect from the construction or operation of the Proposed Development [ER 3.9.59]. The ExA also noted that where the site includes or has the potential to include heritage assets with archaeological interest, the Applicant has included an appropriate desk-based assessment and where necessary, a field evaluation [ER 3.9.72].
37. However, on archaeology, she notes from the Applicant's ES [paragraph 11.10.9], that the listed buildings at Withybridge Mill are set within known archaeological remains that likely relate to the history and development of the Mill, and therefore the surrounding archaeological landscape contributes to the historic and evidential values of these designated buildings. Paragraph 11.12.13 of the ES also states that the significance of the Moat House scheduled monument is in the archaeological remains associated with the monument, as well as earthwork structure.
38. The Secretary of State is aware that while these archaeological assets would not be physically impacted as a result of the Proposed Development, there would be impacts due to the change in the settings of these assets, as described above. The Secretary of State notes that Historic England agrees that while there would be some harm caused to the scheduled monument at Moat House as a result of the increased traffic and lighting closer to the monument, this would be partially mitigated through planting, landscaping and reduced lighting and the expected impact would be equivalent to less than substantial harm [ER 3.9.52].
39. On the partial or full removal of the 6 archaeological sites listed at ER 3.9.29 and the potential loss of unknown archaeological remains [ER 3.9.31], the Secretary of State notes that the Applicant's ES concluded that the removal of these assets would result in a major adverse effect, but that the level of impact would reduce to slight adverse through a 'preservation by record' in the form of archaeological excavation, recording and reporting through the creation of a site archive to preserve the significant evidential values of the remains [ER 5.2.33].
40. In taking her decision, the Secretary of State has had, like the ExA, regard to the duties under regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 for the need to have regard to the desirability of:
- preserving any affected listed building or its setting or any features of special architectural or historic interest which it possesses;
 - preserving or enhancing the character or appearance of any affected conservation area; and
 - preserving any affected scheduled monument or its setting. The Secretary of State also notes the guidance in relation to consideration of heritage assets impacted set out in the NPSNN below.

41. Paragraph 5.134 of the NPSNN states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, the Secretary of State should weigh this harm against the public benefits expected as a result of the proposal, including securing its optimum viable use. The NPSNN also states at paragraph 5.142 that *“Where there is a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the Secretary of State should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction.”* Additionally, paragraph 5.139 of the NPSNN is clear that a documentary record of the past is not as valuable as retaining the heritage asset, and therefore the ability to record evidence should not be a factor in deciding whether consent should be granted.
42. The Secretary of State agrees that the AMP detailed in requirement 9 of the Order, which will make up part of the Environmental Management Plan (“EMP”) secured by requirement 3 of the Order, will ensure an appropriate approach towards monitoring, investigating and recording any features of archaeological interest that might be encountered during the construction phase [ER 3.9.63]. The Secretary of State is satisfied that this complies with paragraph 5.142 of the NPSNN on the need for the inclusion of appropriate measures to enable the identification and treatment of undiscovered archaeological assets. Taking into account the fact that the ability to record evidence should not be a factor in her decision as to whether consent should be granted, she still agrees that the loss of any known or unknown archaeological assets would not result in any significant harm, and because of the impacts on the designated Moat House and Butlers Court and Withybridge Mill would be largely temporary, she agrees with the ExA’s conclusions that no instances have been identified during construction or operation in which the Proposed Development is likely to result in substantial harm [ER 3.9.71].
43. The Secretary of State therefore agrees with the ExA’s conclusion set out in ER 5.2.37 that the substantial public benefits that are expected as a result of the Proposed Development would strongly outweigh the less than substantial harm to the significance of the heritage assets, and any loss of significance to those assets would therefore be justified [ER 5.2.38].
44. In making her decision, the Secretary of State is required to afford varying degrees of weight to the harms and benefits associated with the Proposed Development. As set out above, while the ExA has weighed the identified harm against the public benefit, it has not recommended a weighting for this harm on the non-designated archaeological remains and on the archaeology that is associated with the Moat House and Butlers Court and Withybridge Mill monument and buildings. The Secretary of State has placed great weight on the conservation of these assets and has therefore given the expected harm moderate negative weight in the overall planning balance.

Landscape and Visual

45. With regard to the landscape and visual effects arising from the Proposed Development, the Applicant’s assessment is set out in Chapter 9 of the ES and supporting appendices [ER 3.10.10]. As summarised at ER 3.10.20 - 3.10.26, the

Applicant identified mitigation measures for any adverse effects during construction and operation and the Applicant's Register of Environmental Actions and Commitments ("REAC") sets out the mitigation measures and how and where they are secured, including the EMP, secured by requirement 3 of the Order. The ExA identified the issues of Landscape Character and Visual Amenity for further consideration during the Examination [ER 3.10.53].

46. Noting the ExA's considerations in respect of Landscape Character, and that the JC LIR accepts that in the long term the proposed mitigation could create some beneficial effects on Landscape Character [ER 3.10.55 - 3.10.56], the Secretary of State agrees with the ExA's conclusions on this issue. The Secretary of State is satisfied that the Applicant's assessment of the effects on Landscape Character is appropriate and meets the requirements of paragraphs 5.144 - 5.148 of the NPSNN [ER 3.10.67]. Like the ExA, the Secretary of State agrees that proposed mitigation has been put forward and is secured via the REAC and requirements 5 and 6 within the Order, in accordance with paragraph 5.160 of the NPSNN [ER 3.10.69].

Visual Amenity

47. The Secretary of State has further considered visual amenity. She notes that several receptors are expected to experience adverse visual effects during construction of the Proposed Development, most notably Sheldon Cottages, where the effects are major adverse and of very large adverse significance [ER 3.10.39]. While the replacement and mitigation planting is expected to provide screening and therefore reduce the visual effects for most receptors by year 15 [ER 3.10.46], Sheldon Cottages would continue to experience moderate adverse effects due to its closer proximity to Junction 10, which cannot be fully mitigated [ER 3.10.47 and 3.10.51]. With the exception of Sheldon Cottages, the Applicant considers that their proposed mitigation ensures the Proposed Development does not have any long-term significant adverse effects on visual amenity [ER 3.10.51 - 3.10.52].
48. The ExA also considered the concerns of the JC at ER 3.10.57 - 3.10.58 and those of Mr Badham at ER 3.10.62, agreeing that the provision of new noise barriers would have a marked visual effect. However, the ExA also considered the design of these would need to be given careful consideration, in consultation with affected parties [ER 3.10.74], which the Applicant then committed to at LV6 of the REAC and secured via requirement 14 of the Order [ER 3.10.76]. The Secretary of State notes that requirement 14 additionally provides that the Applicant seek approval from the Secretary of State for the proposals following any granting of the Order and that the details provided to her should reflect the mitigation measures put forward in the ES and the Noise and Vibration Management Plan. The approval of the Noise and Vibration Management Plan is part of the 2nd iteration of the EMP, and completion, approval and implementation of it, is secured post-consent via requirement 3 [ER 3.10.76 - 3.10.77]. However, as explained further in the 'Draft Development Consent Order and Related Matters' section of this letter, the Secretary of State has modified the requirement to reflect that approval should be sought from the relevant local planning authority. On the basis of these commitments in the REAC for mitigation and consultation on detailed design for

the noise barriers, the landscape and visual matters had been agreed by the Applicant and JC by the close of Examination [ER 3.10.59 - 3.10.61].

Secretary of State's conclusion on Landscape and Visual

49. After careful consideration, the Secretary of State is content with the provision made within the recommended Order to mitigate the visual impacts of the new noise barriers and is further content that this will be consulted on with relevant parties and the JC [ER 3.10.74 and 3.10.76]. The Secretary of State finds it appropriate that provision is included within the recommended Order for the approval, by the relevant local planning authority, of an updated Noise and Vibration Management Plan as part of the 2nd iteration EMP, should the Order be granted [ER 3.10.77]. This, in conjunction with requirement 11 which further secures design of noise barriers [ER 3.10.78], leads the Secretary of State to agree with the ExA that the design of the Proposed Development has had due regard to the environmental effects on the landscape with respect to paragraph 5.157 of NPSNN [ER 3.10.79] and meets the objectives of paragraph 5.160 of NPSNN to minimise adverse effects through design [ER 3.10.75].
50. Noting that no mitigation is possible for the remaining adverse effects at Sheldon Cottages [ER 3.10.47], the Secretary of State agrees with the ExA that this carries a little negative weight against the Order being made [ER 3.10.82]. She therefore ascribes a little negative weight to landscape and visual matters in the planning balance.

Noise and Vibration

51. The Applicant's consideration of noise and vibration impacts is set out in Chapter 6 of the ES, which includes impacts from both the construction and operational phases of the Proposed Development [ER 3.11.7]. As summarised by the ExA at ER 3.11.9 - 3.11.29, the ES concludes that during the construction phase, there would be noise associated with demolition and construction, and construction traffic, for which there is planned monitoring and mitigation for cases where set thresholds are exceeded [ER 3.11.15 - 3.11.17 and 3.11.43]. For the operational phase, the ES concludes significant adverse noise effects from road traffic on some receptors [ER 3.11.24 - 3.11.27] but significant beneficial effects (ranging from minor to major beneficial) on several other receptors, particularly in the longer term once the planned mitigation from noise barriers and reduced traffic flows take effect [ER 3.11.28 and ES 6.12.11 - 6.12.17].
52. The ExA highlighted the following issues for consideration in the Examination:
 - Noise Assessment Methodology;
 - Construction Stage Traffic Diversion Noise Impacts;
 - Construction Stage Mitigation; and
 - Stoke Road Operational Noise Effects and Mitigation [bullet points following ER 3.11.29].
53. Having had regard to the ExA's consideration of the above issues and noting that by the close of Examination there were no outstanding concerns from the JC

regarding noise and vibration, assessment of traffic diversions, construction stage mitigation and all matters raised had been addressed to the satisfaction of JC [ER 3.11.59, 3.11.62, 3.11.64 and 3.11.69], the Secretary of State agrees with the findings and conclusions reached by the ExA in respect of Noise Assessment Methodology and the Construction Stage Impacts and Mitigation. She is satisfied that the Applicant's noise assessment complies with paragraphs 5.189 to 5.191 of NPSNN [ER 3.11.61] and that provision has been made within the Order for a 2nd iteration of the Noise and Vibration Management Plan which would be prepared at detailed design stage and would adequately identify any exceedance of noise thresholds during construction, thereby identifying the need for appropriate mitigation in the form of noise insulation or temporary re-housing [ER 3.11.65]. The Noise and Vibration Management Plan is secured via requirement 14 of the Order, and the management of the mitigation measures through the REAC, is secured via requirement 3 of the Order. The Secretary of State is therefore content that this meets the objective within paragraph 5.197 of the NPSNN to ensure delivery of mitigation measures.

Stoke Road Operational Noise effects and mitigation

54. In respect of Stoke Road and Stoke Orchard Village, the Secretary of State notes that the ES identified significant adverse noise effects on properties in these locations during operation of the Proposed Development [ER 3.11.24] due to the increased traffic using local roads [ES 6.7.7]. For some of these properties, this resulted in noise exceeding both the day and night-time Significant Observed Adverse Effect Level (a value that if exceeded has the potential to result in a significant effect depending on duration and context [ER 3.11.14]) [ES 6.12.12]. The Secretary of State also notes that the ExA thoroughly explored potential mitigation measures with the Applicant and JC in relation to this issue [ER 3.11.48], as the ES showed that mitigation using noise barriers would not be possible due to limited space and access requirements [ER 3.11.26].
55. In response, the Applicant confirmed that a new traffic calming scheme in Stoke Orchard was planned, reducing the speed limit from 30mph to 20mph, with the aim of reducing traffic flows and associated noise impacts by encouraging slower speeds through the village, and potentially discouraging use of the route altogether. The Applicant advised that the reduction in speed to 20mph would lead to a reduction in noise of about 1.8db, before taking into account any potential decrease in traffic as a result, which could reduce noise even further. The JC agree with the effect of the speed reduction [ER 3.11.49 - 3.11.50 and REP9-011, Q12.0.1]. However, the scheme would be brought forward by GCC in a separate capacity and with separate funding, and not directly part of the Proposed Development [ER 3.11.26 and 3.11.53]. To aid her consideration, the Secretary of State requested an update from the Applicant or relevant GCC department in her letter of 21 March 2025 as to the status of the Stoke Orchard traffic calming scheme and its expected completion. In their response of 4 April 2025, the Applicant confirmed that the scheme was undergoing detailed design and was on GCC's programme for delivery in the 2025/2026 financial year.

Other Operational effects

56. The Secretary of State notes that significant adverse noise effects were also identified during the operational phase for receptors at A4019 (west of M5), Gloucester Road and Brooklyn Road/Arle Road, for which mitigation in the form of noise barriers was not possible due to access requirements and limited space. The Applicant concludes that these effects are unavoidable [ER 3.11.24 - 3.11.25].

Secretary of State's conclusion on Noise and Vibration

57. Although the ExA was satisfied that the traffic calming scheme in Stoke Orchard would adequately address the noise effects, it found that the scheme was not subject to this Application and so not secured within the Order itself, creating a potential conflict with paragraphs 5.195 and 5.196 of the NPSNN and the objectives of the Noise Policy Statement for England ("NPSE") [ER 3.11.66 - 3.11.67 and 3.11.72]. The ExA found similar conflict with the NPSNN and NPSE for the other receptors for which mitigation is not possible [ER 3.11.73].
58. Like the ExA, the Secretary of State has had regard to paragraphs 5.195 and 5.196 of the NPSNN which confirms that developments should aim to "mitigate and minimise other adverse effects on health and quality of life from noise from the new development" and "consider whether requirements are needed which specify that the mitigation measures put forward by the applicant are put in place".
59. The Secretary of State agrees with the ExA that Chapter 13 of the ES (and specifically table 13-59) does not identify any significant residual effects on health and quality of life from noise during the operation of the Proposed Development [ER 3.11.76]. The Secretary of State is content that although significant adverse noise effects on some receptors have been identified, there would not be any significant residual effects on health and quality of life specifically as a result of noise arising from the Proposed Development. She is further content that no relevant representations regarding noise and vibration were maintained [ER 3.11.68]. Accordingly, the Secretary of State considers and agrees with the ExA that there is no conflict with paragraph 5.195 of the NPSNN nor with the aims of the NPSE [ER 3.11.76].
60. As outlined above, the Secretary of State is aware that there is appropriate mitigation planned for the effects at Stoke Road / Stoke Orchard Village in the form of the traffic calming scheme, though not part of the Proposed Development. As confirmed in the Applicant's response to the Secretary of State's letter of 21 March 2025, the scheme is currently at detailed design stage and is anticipated to be completed within the current financial year. In respect of paragraph 5.196 of the NPSNN the Secretary of State has considered whether it is necessary to secure mitigation by requirement but, given the advanced stage of the traffic calming scheme, does not consider requirements within the Order are necessary.
61. Whilst the ES does not identify any significant residual effects on health and quality of life from noise, the Secretary of State nonetheless recognises that noise effects would be felt by up to 238 receptors at night [ER 3.11.27] and would remain without any secured mitigation. The Secretary of State therefore agrees with the ExA's conclusion that this should carry moderate weight against the Order being made

[ER 3.11.77 and 5.2.45]. She therefore concludes that matters of noise and vibration should be given moderate negative weighting in the planning balance.

Assessment of Cumulative Effects

62. In line with Schedule 4, paragraph 5 of the 2017 Regulations, the Applicant's ES should include details of the likely significant effects on the environment resulting from, amongst other things, the cumulation of effects from the Proposed Development with other existing and/or approved projects. Paragraph 4.3 of the NPSNN on the assessment of cumulative effects also states that the Applicant should set out the potential adverse impacts in the ES, together with any measures to avoid or mitigate these impacts. Paragraph 4.55 of the NPSNN also states that the Secretary of State should consider whether adding the pollutant impacts of the Proposed Development to any existing pollution would make the development unacceptable, particularly in relation to statutory environmental quality limits [ER 3.13.2 - 3.13.4].
63. Like the ExA, the Secretary of State is satisfied that the Applicant's Cumulative Effects Assessment (supplemented by the Applicant's Technical Note as referenced at ER 3.13.6) is robust, has had due regard to other planned projects and has considered potential mitigation and controls for any cumulative effects that may be generated, including from projects whose status is uncertain but with which sequencing of construction works of the Proposed Development may be required with the proposed works for those individual projects [ER 3.13.45 - 3.13.47]. The Secretary of State agrees with the ExA that the Applicant's inter project assessment is sufficient to understand how the effects of the Proposed Development would combine and interact with the effects of other development and would meet the requirements of the 2017 Regulations and the NPSNN [ER 3.13.50], and that the Applicant has taken reasonable steps to avoid or mitigate intra and inter project impacts as far as possible [ER 3.13.49 and 3.13.51].
64. Nonetheless, the Secretary of State is aware that an accumulation of adverse construction effects cannot be avoided or mitigated entirely [ER 3.13.49] and was therefore surprised to note the ExA's conclusion at ER 3.13.52 of moderate positive weight on the matter of cumulative effects. The Secretary of State queried this with the ExA who confirmed this was a reporting error and the conclusion reached was that of little negative weight. The Secretary of State concurs and attributes cumulative effects as having a little weight against the Order being made.

Habitats Regulations Assessment ("HRA")

65. The Secretary of State's considerations in relation to the HRA are set out in more detail in the 'Habitats Regulations Assessment for an Application under the Planning Act 2008 M5 Junction 10 Improvements Scheme (2 June 2025)', that accompanies this letter.
66. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 ("the Habitats Regulations"), the Secretary of State as the competent authority is required to consider whether the Proposed

Development (which is a project for the purpose of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site. The purpose of the likely significant effects (“LSE”) test is to identify the need for an ‘appropriate assessment’ (“AA”) and the activities, sites or plans and projects to be included for further consideration in any AA.

67. Where LSE cannot be ruled out, the Secretary of State must undertake an AA under regulation 63(1) of the Habitats Regulations to assess potential adverse effects on site integrity. Such an assessment must be undertaken before any decision is made on undertaking a plan or project or any decision giving consent, permission or other authorisation to that plan or project. In light of any such assessment, the Secretary of State may only grant development consent if it is ascertained that the plan or project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons of overriding public interest apply (regulation 64).
68. The Secretary of State has considered the application in line with her duty under the Habitats Regulations. The Secretary of State agrees with the ExA that the Proposed Development is not directly connected or necessary for the conservation management of a European site [ER 4.2.1].
69. The Secretary of State has given consideration to the Applicant’s supporting documents including but not limited to the following:
 - Environmental Statement Appendix 7.13: Habitats Regulation Assessment: Screening [APP-099], updated as [REP3-024]
 - Environmental Statement Appendix 7.13: Habitats Regulation Assessment: Screening Addendum [AS-094]
 - Environmental Statement Appendix 7.14: Habitats Regulation Assessment: Statement to Inform Appropriate Assessment [APP-100], updated as [REP3-026]
 - Environmental Statement Chapter 7 Biodiversity [APP-066], updated as [REP1-012] and [REP10-043]
 - Environmental Statement Appendices 7.1 – 7.12 [APP-086 to APP-098] and 7.15 - 7.19 [APP-101 to APP-105 and AS-022].
70. She has considered the potential impact of the Proposed Development on seven European protected sites which have been scoped into the HRA assessment using methodology set out at section 2.2 of the Applicant’s HRA Screening Report [REP3-024]. The sites are: Wye Valley and Forest of Dean Bat Sites Special Area of Conservation (“SAC”), Walmore Common Special Protection Area (“SPA”), Walmore Common Ramsar site, Severn Estuary SAC, Severn Estuary SPA and Severn Estuary Ramsar site, and Cotswold Beechwoods SAC [ER 4.3.1].

71. The Secretary of State has taken note of the conclusions of the ExA and the Applicant, that likely significant effects alone or in combination with other plans or projects may be excluded beyond reasonable scientific doubt on the qualifying features of Wye Valley and Forest of Dean Bat Sites SAC, Walmore Common SPA, Walmore Common Ramsar site, Severn Estuary SPA and Cotswold Beechwoods SAC [ER 4.4.1], and she agrees with this conclusion.
72. The Secretary of State agrees with the ExA and the Applicant that LSE cannot be excluded from the Severn Estuary SAC and Severn Estuary Ramsar site [ER 4.4.2 – 4.4.4]. The impacts considered by the Applicant as having the potential to result in LSE during construction and operation have been summarised in ER Appendix C Table B.
73. The Secretary of State therefore considered that an AA should be undertaken to discharge her obligations under the Habitats Regulations. The AA is provided in detail within the Secretary of State's HRA published alongside this letter and should be read in conjunction with it.
74. The Secretary of State concludes that when mitigation measures are taken into account there will be no adverse effects from the Proposed Development alone and in combination with other plans and projects, on the integrity of the Severn Estuary SAC and the Severn Estuary Ramsar site. These conclusions are also set out in more detail in the accompanying HRA.
75. Regulation 63(3) of the Habitats Regulations requires competent authorities, if they undertake an AA, to consult the appropriate nature conservation body and have regard to any representations made by that body. The Secretary of State is satisfied that Natural England have been consulted during the Examination and that they are in agreement with the Applicant that any adverse effect on integrity ("AEoI") of the Severn Estuary SAC and the Severn Estuary Ramsar site can be excluded beyond reasonable scientific doubt [RR-027].

The Secretary of State's conclusion on the Habitats Regulations Assessment

76. The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of these European sites and where relevant, the measures in place to avoid and reduce the potential harmful effects, there would not be any implications for the achievement of the conservation objectives for all of the European sites identified from the Proposed Development alone and in combination with other plans or projects.
77. The Secretary of State, as the competent authority for the purposes of the Habitats Regulations, has therefore concluded that, taking into account the package of mitigation measures, it is permissible for her to grant development consent for the Proposed Development.

Planning Balance

78. The ExA's overall recommended weighting on the matters examined are as follows:

- The Need Case - moderate positive weight to the contribution that the Proposed Development would make towards the compelling need for improvement to the Strategic Road Network [ER 5.2.4];
- Alternatives – neutral weight [ER 5.2.8];
- Traffic and Transport - great positive weight on the basis of the additional benefits of improving safety and creating capacity for future growth [ER 5.2.12];
- Air Quality - little positive weight on the basis that there would be reduced pollutant concentrations in the AQMA [ER 5.2.20];
- Biodiversity and Ecology – moderate positive weight on the basis that the embedded mitigation would avoid significant harm to biodiversity interests and provide opportunities to conserve and enhance biodiversity and while there is currently no obligation for NSIPs, the Applicant is intending to provide at least 10% biodiversity net gain, which is secured by requirement 3 in the Order [ER 5.2.23];
- Flood Risk, Drainage and Water Environment – little negative weight based on slight adverse operational effects regarding surface water discharges ground water resources, potential significant construction phase effects and potential significant adverse effects in respect of the River Chelt floodplain [ER 5.2.30];
- Historic Environment – little negative weight on the basis that effects during the construction phase would give rise to less than substantial harm to the significance of the underlying archaeology which weighed against the substantial public benefits of the Proposed Development would strongly outweigh the harm to the historic asset and the loss of significance to those assets would be justified [ER 5.2.39];
- Landscape and Visual - little negative weight due to significant adverse landscape and visual effects during construction and the adverse effect on landscape during the early years of the operational stage prior to the establishment of the mitigation planting [ER 5.2.42];
- Noise and Vibration - moderate negative weight in the absence of secured mitigation to protect some receptors from operational significant adverse effects [ER 5.2.45];
- Other Matters – as set out below [ER 5.2.47 - 5.2.49];
- Climate – neutral weight;
- Geology and Soils – neutral weight;
- Minerals and Waste – neutral weight;
- Population and Human Health – neutral weight;
- Socio-Economics - moderate positive weight;
- Good Design – neutral weight; and

- Assessment of Cumulative Effects – moderate positive weight [ER 5.2.54].

79. Notwithstanding the above, the Secretary of State has reached a different conclusion and weighting on the following matters:

The Need Case

80. For the reasons outlined in the Need section of this letter, while taking note of the ExA's consideration of the local policy position, the Secretary of State places much greater weight on the critical need to improve the Strategic Road Network. She considers that a compelling case for the Proposed Development has been demonstrated, which she has found to be line with national policy. The Secretary of State considers this matter should carry great weight in favour of the Order being made.

Historic Environment

81. Noting that the ExA has not made a conclusion on a weighting for the harm on the non-designated archaeological remains and on the archaeology that is associated with the Moat House and Butlers Court and Withybridge Mill monument and buildings, the Secretary of State has placed great weight on the conservation of these assets. In light of the harm identified, she considers this matter should carry moderate negative weight in the overall planning balance.

Assessment of Cumulative Effects

82. As explained in the Cumulative Effects section of this letter, the Secretary of State queried the recommended moderate positive weighting with the ExA, as it had reported an accumulation of adverse construction effects which could only be partially mitigated. The ExA confirmed this was a reporting error and considered the matter should attract a little negative weight. The Secretary of State considers that cumulative effects should carry a little negative weight against the Order being made.
83. In the planning balance, the Secretary of State also considers that the following tests have been met:

Green Belt

84. In her consideration of the Gloucester and Cheltenham Green Belt, the Secretary of State has had due regard to paragraphs 5.170 - 171 and 5.178 of the NPSNN, which outline that there is a general assumption against inappropriate development in Green Belt areas, except in very special circumstances. The Secretary of State will need to assess whether there are very special circumstances to justify inappropriate development, which can only exist where harm to the Green Belt is outweighed by other considerations. In this assessment, substantial weight will be attached to any harm to the Green Belt [ER 3.5.2 - 3.5.5]. The Secretary of State has also had regard to paragraphs 152 - 155 of the NPPF and paragraph 001 of the National Planning Practice Guidance which are important and relevant considerations in this context [ER 3.5.8 - 3.5.12].

85. The Secretary of State has noted the ExA explored whether the Proposed Development could fall outside of the definition 'inappropriate development' by way of exceptions (b) and (c) to paragraph 155 of the NPPF. However, for exceptions to apply, a Proposed Development must preserve the openness of the Green Belt and not conflict with its purposes, as well as demonstrating a requirement for local transport infrastructure in a Green Belt location [ER 3.5.38 - 3.5.39]. Noting the ExA's findings detailed at ER 3.5.55 - 3.5.58, the Secretary of State is satisfied that parts of the Proposed Development can reasonably be described as local infrastructure and the requirement for its location within the Green Belt has been demonstrated [ER 3.5.58]. However, the Secretary of State agrees with the ExA that the introduction of a new, partially elevated, Link Road will visually divide the area between Cheltenham and the M5 and reduce the degree of openness to a significance where it is materially harmful to the openness of the area [ER 3.5.42 - 3.5.47]. She also agrees with the ExA that there will be adverse effects from construction works for the Proposed Development, which although temporary, are of a scale and duration that would result in a harmful effect on the openness of the Green Belt [ER 3.5.52]. Accordingly, the ExA found that the Proposed Development conflicts with one of the purposes of the Green Belt in paragraph 143 of the NPPF, in that it represents encroachment into the countryside [ER 3.5.53 and 3.5.59]. The Secretary of State concurs with the ExA that the openness of the Green Belt would be harmed and she finds this does not constitute an exception to inappropriate development.
86. Like the ExA, the Secretary of State attaches substantial weight to the harm to the Gloucester and Cheltenham Green Belt and notes that in accordance with the NPSNN and the NPPF, inappropriate development should not be approved except in very special circumstances [ER 5.2.13] and so there is a need for her to consider whether very special circumstances exist to justify inappropriate development here [ER 3.5.60].
87. As outlined within this letter, the Proposed Development will deliver tangible economic, transport and environmental benefits and meets an identified need for improvements to the Strategic Road Network [ER 5.2.16]. The Secretary of State is therefore content that the harm to the Green Belt and any other harm identified elsewhere in this letter, is clearly outweighed by these factors and so she finds that very special circumstances exist to justify the approval of inappropriate development. Overall, the Secretary of State is satisfied the Proposed Development accords with the Green Belt policy tests in the NPSNN and NPPF [ER 5.2.17].

Water Framework Directive

88. In her consideration of the Flood Risk, Drainage and Water Environment, the Secretary of State has had due regard to the objectives of the Water Framework Directive to prevent deterioration of water bodies and to protect or restore water bodies in order to reach 'good' status by 2027. The Secretary of State is satisfied with the Applicant's updated Water Framework Directive Assessment, submitted during Examination [ER 3.8.40], which concluded that the Proposed Development would not have the potential to restrict the achievement of status objectives in the Severn River Basin District which includes the Estuary [ER 3.8.41]. The ExA noted

the positions of the Environment Agency and the JC, noting particularly that the Environment Agency had confirmed they were satisfied there is negligible risk of deterioration to water quality elements in the affected WFD water bodies [ER 3.8.42].

89. The ExA considered that a satisfactory WFD compliance assessment had been undertaken and has shown that the Proposed Development would not result in a deterioration of the WFD status nor would it prevent those water bodies achieving good status [ER 3.8.75]. Additionally, the Secretary of State notes that the Environment Agency had no outstanding concerns regarding water quality / resources which would conflict with paragraph 5.227 of the NPSNN [ER 3.8.78]. The Secretary of State therefore agrees with the ExA that there is no conflict with paragraphs 5.226 – 5.227 of the NPSNN [ER 3.8.78].
90. The Secretary of State notes that the Proposed Development involves work in Flood Zone 3(b) land [ER 3.8.51], which primarily comprises the new Link Road. In accordance with the NPPF, the Applicant carried out the Sequential Test but confirmed that all alternative route options for the Link Road would encroach on Flood Zone 3 land and there were no reasonably available lower risk alternative routes for the Link Road available [ER 3.8.52]. As there are no reasonably available lower flood risk alternative sites, the Secretary of State notes that the Exception Test therefore applies.
91. At ER 3.8.51 - 3.8.58, the ExA considered the position that the Link Road is essential to the whole Proposed Development and should be deemed 'essential infrastructure' for the purposes of the Exception Test. The Secretary of State agrees with that assessment [ER 3.8.85]. Having regard to paragraph 5.108 of the NPSNN regarding the Exception Test, the Secretary of State is satisfied that the Applicant identified no increase in flood risk elsewhere, a position accepted by the JC and the Environment Agency; and that there is no evidence to suggest the Proposed Development would not be safe for its lifetime [ER 3.8.86 - 3.8.87]. The Secretary of State is also content that the wider benefits of the Proposed Development would outweigh flood risk. As such, the Secretary of State agrees with the ExA that the Proposed Development passes the requirements of the Sequential and Exception Tests [ER 3.8.88].
92. The Secretary of State notes that since the Examination, new Flood and Coastal Erosion Risk Data was produced by the Environment Agency following the release of its 'National assessment of flood and coastal erosion risk in England 2024' report. The new data relevant to planning published on 28 January 2025, with additional data published on the 25 March 2025 and further updates to flood risk datasets being produced every 3 months and coastal erosion datasets every 12 months thereafter. The Secretary of State expects the Applicant to work with the Environment Agency to consider what impact, if any, the new data may have and to produce any revised assessments as required. She has also inserted a new requirement in Schedule 2 of the Order to require the Applicant to consider the Environment Agency's flood risk and coastal erosion data in its flood risk assessment. The Secretary of State has provided further detail in the 'Draft Development Consent Order and Related Matters' section in this letter.

Landscape and Visual

93. The Secretary of State has assigned landscape and visual matters a little negative weight in the planning balance due to the lack of mitigation possible for the adverse visual effects on some receptors. The ExA's view is that the negative visual effects on sensitive receptors during construction and subsequent operation could not reasonably be said to outweigh the benefits of the Proposed Development in the planning balance and therefore the policy tests in paragraph 5.158 of NPSNN are met [ER 3.10.81 - 3.10.82]. The Secretary of State concurs with this view.

The Secretary of State's Conclusions on the Planning Balance

94. The Secretary of State agrees with the conclusions on the weightings of the ExA, except for the matters detailed above. Having carefully considered all matters, the Secretary of State is satisfied that the need for the Proposed Development has been established and that this need should be afforded great weight given the contribution it would make to meeting the need for critical infrastructure as set out in the NPSNN. The Secretary of State has weighed the expected benefits of the Proposed Development against the potential negative effects that may occur, and she is of the view that any potential negative impacts are substantially outweighed by the need, and the economic, transport and environmental benefits that are expected from the Proposed Development. She is satisfied that all legislative and policy tests have been met.

Land Rights and Related Matters

95. The Secretary of State notes that the Order contains compulsory purchase powers to allow the Applicant to acquire land and rights over land, and to take temporary possession of land. A full description of the extent of the land and rights sought by the Applicant, together with the reasons for its requirement, is set out in the Applicant's Statement of Reasons and Explanatory Memorandum. The ExA describes the powers being sought by the Applicant for these purposes at ER 6.3.1 - 6.3.2.
96. In her consideration of the compulsory acquisition and temporary possession powers being sought, the Secretary of State has had regard to the legislative requirements and national guidance set out by the ExA at ER 6.2.1 - 6.2.11, including the CA Guidance and CA Regulations defined at ER 6.2.1.

Persons with an interest in land / Affected Persons

97. The ExA reports that it was unconvinced the Applicant's Land Rights Tracker was kept up-to-date as negotiations for the voluntary acquisition of land progressed. As such, the ExA considered that where it had not been clearly advised negotiations had completed or the landowner's objection withdrawn, then this remained an outstanding issue [ER 6.6.6]. The ExA identified those Affected Persons as follows:

- Crown Estate Commissioners;
- Mr Neil Hadley;
- Mr Steven Wakefield;

- Mr Andrew David Smith;
- Mr Benedict Williams;
- Dana Louise Wotton;
- Cheltenham Borough Council;
- JW Bruton & Sons;
- Mrs Mary Bruton and Ms Elizabeth Counsell;
- Ei Group Limited;
- Thanks for Popping in Traditional Pubs (House in the Tree Public House);
- Bloor Homes; and
- Mr Peter Badham [ER 6.6.8].

98. With the exception of the Crown Estate Commissioners' objection, which will be considered separately below in the 'Crown Land' section, the Secretary of State has carefully considered the objections received from the Affected Persons listed above, the responses of the Applicant and all evidence presented during Examination. She agrees with the conclusions reached by the ExA and its reasons for reaching them. The Secretary of State noted that the Report did not specifically conclude on the interests of Mrs Mary Bruton and Ms Elizabeth Counsell, and so queried this with the ExA, who recognised the overlap of these interests with those of JW Bruton & Sons and confirmed the conclusions for Mrs Bruton and Ms Counsell would be consistent with those already set out for JW Bruton and Sons at ER 6.6.123 – 6.6.124.
99. The Secretary of State is satisfied that the ExA has considered all the objections received and she has had regard to the ExA's recommendation regarding the grant of compulsory acquisition and temporary possession powers in each individual case. The Secretary of State acknowledges and agrees with the specific comments made in relation to the status of negotiations, and the nature of the land in relation to the Proposed Development in each plot considered. She agrees that, in each instance, a clear case has been presented that the compulsory acquisition or temporary possession of land is required to facilitate the Proposed Development, that the rights sought are proportionate and that there is a compelling case in the public interest for compulsory acquisition and temporary possession powers to be granted as the case may be, which both the ExA and the Secretary of State are satisfied would outweigh any private loss to these individuals. [ER 6.6.78, 6.6.86, 6.6.95, 6.6.101, 6.6.115, 6.6.124, 6.6.148, 6.6.158, 6.6.174 and 6.6.195].

Statutory Undertakers

100. The Secretary of State notes that there are a number of existing utility services located within the Order limits that would be affected by the Proposed Development. The Secretary of State is aware that the Order includes powers to authorise the extinguishment of a relevant right, or the removal of relevant apparatus, belonging to Statutory Undertakers [ER 6.5.19], and that the Order includes Protective Provisions for the protection of these Statutory Undertakers.

The Secretary of State has considered the objections raised by National Grid Electricity Distribution, Wales and West Utilities and Severn Trent Water Limited and their concerns regarding the protective provisions [ER 6.7.4 - 6.7.52] and notes that these objections remained outstanding at the close of the Examination. Sections 127 and 138 of the 2008 Act are therefore engaged [ER 6.3.9 - 6.3.10].

Crown Land

101. The Order includes powers to compulsorily purchase rights and interests in land identified as being Crown Land, the interests in which were identified as being held by the Ministry of Housing, Communities and Local Government ("MHCLG" formerly the Department for Levelling Up, Housing and Communities), the Department for Environment Food and Rural Affairs ("Defra") and the Crown Estate Commissioners. The relevant plots are identified in the Book of Reference as plot 13/6a (MHCLG), plot 13/3r (Defra), and plots 14/5a and 14/7a (Crown Estate Commissioners) [ER 6.3.15 - 6.3.16]. As such, section 135 of the 2008 Act is engaged, and consent of these relevant crown authorities is required. The ExA reports that the Applicant had made continuous efforts to engage with the three authorities, and the Secretary of State is disappointed to note the absence of substantive engagement, particularly from the Crown Estate Commissioners, meaning that consent had not been achieved by the close of Examination [ER 6.5.24].
102. The Secretary of State has considered the Crown Estate Commissioners' objection on the basis that they are the freeholders of plots 13/6a, 13/3r and 14/5a [ER 6.6.11] and because they considered it possible for the Applicant to deliver the Proposed Development without acquiring the land permanently, particularly in the case of plot 14/5a [ER 6.6.12]. The ExA considered this at ER 6.6.27 - 6.6.40, and concluded that all of the Crown Land and interests requested were required for a legitimate purpose to enable the Proposed Development [ER 6.6.41] and in particular that without the acquisition of plot 14/5a, the Applicant would be unable to realign the A4019, as a lesser interest would not achieve the modifications to the A4019 that the Proposed Development requires [ER 6.6.37]. The ExA concluded that the rights and interests sought over all Crown Land are necessary, proportionate and that there is a compelling case in the public interest for the CA powers to be granted [ER 6.6.41].
103. On 21 March 2025, during her decision-making period, the Secretary of State consulted MHCLG, Defra and the Crown Estate Commissioners, requesting an update on the status of negotiations. Defra responded to confirm that the Secretary of State for Defra did not hold the benefit of the interest in land in question and that, in any case, the interest in question has been extinguished. The Applicant's response of 4 April 2025 included a letter from MHCLG confirming that it is satisfied with and consents to the proposed Order applying in relation to the interests held by MHCLG. The Applicant's response also confirmed that it expected to complete the heads of terms being negotiated with the Crown Estate Commissioners by the end of April 2025. As such, the Secretary of State requested an update on this agreement, in her letter of 1 May 2025. On 20 May 2025, the Applicant's response enclosed a letter from the Crown Estate Commissioners confirming Crown consent could now be granted.

Adequacy of Funding

104. The ExA reported that the Applicant's Funding Statement estimates that the total cost relating to land will be £24,579,173, but that a significant amount of land has already been acquired through voluntary agreement and therefore the remaining cost of acquisition will be much lower than this [ER 6.8.17]. The Applicant has secured funding from Homes England through the Housing Infrastructure Fund ("HIF") process [ER 6.5.15], and considers that sufficient funding is therefore available and there would be no impediment to the delivery of the Proposed Development or to the payment of compensation to persons affected by compulsory acquisition, temporary possession, or blight [ER 6.8.16]. While the ExA was satisfied that the Applicant's funding position is sufficiently secure to allow for the delivery of the Proposed Development [ER 6.8.22], it considered that as the HIF funding is time bound [ER 6.8.18], the period for the use of compulsory powers should be limited to three years rather than the requested five years so that it aligned with both the Applicant's stated build programme and the availability of the HIF Funding [ER 7.3.43]. The Secretary of State has considered this further in the 'Draft Development Consent Order and Related Matters' section in this letter.

The Secretary of State's Conclusion on Land Rights and Related Matters (Compulsory Acquisition and Temporary Possession Powers)

105. The Application includes a request for compulsory acquisition of the land to be authorised, and the Secretary of State agrees with the ExA that:

- the land is required for, or incidental to, the Proposed Development [ER 6.8.13, 6.8.41 and 6.9.5];
- there are no suitable alternative sites to the land proposed for the Proposed Development [ER 6.8.8 - 6.8.12];
- the Applicant had explored all reasonable alternatives to compulsory acquisition [ER 6.8.13, 6.8.41 and 6.9.5]; and
- there is a compelling case in the public interest for the land to be acquired compulsorily given the need for the Proposed Development to improve the strategic road networks [ER 6.8.26].

106. On the private loss that would occur as a result of the Proposed Development, particularly the 32 residential properties to be demolished, the Secretary of State agrees with the ExA that the Applicant has sought to minimise and mitigate this loss wherever possible, including the provision of fair and reasonable compensation [ER 6.8.30 - 6.8.32]. The Secretary of State is satisfied that there is sufficient funding in place to cover the costs that may arise from the exercise of the compulsory purchase powers contained within the Order [ER 6.8.19 - 6.8.23]. She agrees with the ExA that the public benefits of the Proposed Development strongly outweigh the private loss suffered of those whose land would be affected [ER 6.9.6] and that any interference with human rights is for legitimate purposes, is proportionate and justified in the public interest [ER 6.8.25 and 6.8.53].

107. The ExA was satisfied, and the Secretary of State agrees, that the Application and its Examination procedurally accord with the 2008 Act and related guidance, all objections submitted to the Examination have been considered and that there is therefore nothing to suggest that parties have not had a reasonable chance to put forward their case or have been put at a substantial disadvantage in relation to other parties [ER 6.8.51]. The Secretary of State is therefore satisfied that the overarching aims of the Human Rights Act 1998 and relevant CA guidance has been met.
108. Regarding the compulsory acquisition of statutory undertakers' lands or rights over it, protective provisions were not formally agreed by close of the Examination with National Grid Electricity Distribution, Wales and West Utilities and Severn Trent Water Limited [ER 6.7.5 – 6.7.52]. As outlined above, the Secretary of State has carefully considered the concerns raised by each party and the protective provisions included in the recommended Order, as well as having regard to the comments made by the Applicant in their letter of 4 April 2025, regarding the outstanding areas of disagreement.
109. Notwithstanding the Applicant's further engagement with Wales and West Utilities following the Examination, the Secretary of State notes that the position of all the parties regarding the protective provisions, remains as at the close of the Examination. She agrees with the findings of the ExA regarding each point of disagreement and its overall conclusions regarding the appropriate form of protective provisions to be included in the Order [ER 6.7.27 - 6.7.28, 6.7.44 – 6.7.45 and 6.7.48 – 6.7.50]. Specifically, in respect of National Grid Electricity Distribution, the Secretary of State prefers the wording proposed by them, noting it has also been accepted in previous applications. In respect of Wales and West Utilities and Severn Trent Water, she agrees with the ExA that the protective provisions contained in the Order would ensure appropriate protection of these statutory undertakers' interests, particularly where there has been limited submissions in support of their alternative proposals, as in the case of Severn Trent Water.
110. Overall, the Secretary of State considers that the form of protective provisions provides an adequate degree of protection to the interests of the Statutory Undertakers, and she also agrees with the ExA that there would be no serious detriment caused to the carrying out of their respective roles and functions, and that the extinguishment of the relevant rights, or the removal of the relevant apparatus, would be necessary for the purpose of carrying out the Proposed Development [ER 6.7.55].
111. In respect of the outstanding Crown Land, the Secretary of State is satisfied that the outcome of her consultations has satisfactorily resolved all questions relating to consents under section 135 of the 2008 Act. In respect of Defra, she agrees with their view that the interest has extinguished, and in any case, was not held for the benefit of the Crown. As a result, consent is not applicable here. In respect of MHCLG and the Crown Estate Commissioners, she is content that the appropriate consent has been provided.

112. Overall, the Secretary of State is satisfied that the requirements of sections 122, 123, 127, 135 and 138 of the 2008 Act are met [ER 6.8.39 - 6.8.43 and 6.9.2 - 6.9.8 - 6.9.11], as well as the relevant parts of the CA Guidance and the CA Regulations [ER 6.8.14].

GENERAL CONSIDERATIONS

Equality Act 2010 and the Public Sector Equality Duty

113. Section 149 of the Equality Act 2010 includes a public sector “general equality duty” setting out the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not [ER 6.8.56]. The Secretary of State notes that the Applicant, although not a public body, had regard to the principles of the public sector equality duty and prepared an Equality Impact Assessment which identified groups with protected characteristics and detailed the potential effects of the Proposed Development on them [ER 6.8.57 - 6.8.58]. The Applicant’s Equality Impact Assessment identified a Travellers Site as housing persons with a protected characteristic and as such, it included mitigation in the design of the Proposed Development to ensure access to the Site was retained and that it was encompassed by the noise barrier [ER 6.8.60 - 6.8.62]. The Secretary of State agrees with the ExA and considers that the Applicant has therefore complied with the public sector equality duty by making reasonable adjustments to processes that would otherwise disadvantage those with a protected characteristic [ER 6.8.62]. She is also content that the ExA, in managing the Examination and coming to its conclusions in the Report, has also had due regard to the duties under the Equality Act legislation [ER 6.8.63]. In considering the determination of this Application, the Secretary of State has had due regard to the public sector equality duty.

Natural Environment and Rural Communities Act 2006

114. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 as amended by section 102 of the Environment Act 2021, has had regard to the purpose of conserving and enhancing biodiversity and, in particular, to the United Nations Environmental Programme on Biological Diversity of 1992. The Secretary of State notes that the ExA has had regard to the Natural Environment and Rural Communities Act 2006 and biodiversity duty in the relevant sections of the Report. In reaching a decision to grant development consent, the Secretary of State has had due regard to the duty of conserving and enhancing biodiversity.

THE DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

115. The Secretary of State has made a number of minor textual amendments to the recommended DCO in the interests of clarity, consistency and precision. Further to the textual amendments the Secretary of State also makes the following modifications:

- a. The preamble has been amended to include references to sections 127 (statutory undertakers' land), 135 (orders: Crown land), 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.), 147 (development of Green Belt land), 154 (duration of order granting development consent) and 229 (services of notices: general) as the Secretary of State considers that these provisions are engaged in the Order.
- b. Article 2 has been amended in the following ways:
 - i. definitions have been moved to corresponding provisions where those definitions only appear in that corresponding provision, including the definitions of "the environmental masterplan" and "the general arrangement plans";
 - ii. the definition of "maintain" is now qualified to only include the applicable works where they do not give rise to any materially new or materially different environment effects in comparison to those reported in the environmental statement; and
 - iii. the definition of "the relevant planning authority" has been amended in consequence of changes to the approval body in Schedule 2 (requirements).
- c. Article 10 has been amended to:
 - i. correct the registered office addresses of Openreach Limited, National Grid Electricity Distribution (West Midlands) PLC, and Zayo Group UK Limited; and
 - ii. remove National Highways, from the parties for whom consent of the Secretary of State is not required to transfer benefits under article 10(5). Without information as to the works to which this provision applies, the Secretary of State does not consider it appropriate to allow for the transfer of benefit for this party in these circumstances.
- d. Articles 11, 15, 18 and 19 have been amended to provide that a written statement regarding the deemed consent provision is required as part of the application for consent under the applicable paragraph to provide sufficient notice of the effect of that provision.
- e. Article 13(7) and (8) have been amended to include structures as well as streets in relation to matters in those paragraphs in recognition of the fact that bridges may be constructed under the provisions of article 13.
- f. Article 20 has been amended to insert a new paragraph (3) which provides that the notice served under paragraph (2) must indicate the nature of the survey or investigation. The Secretary of State considers it appropriate that owners and occupiers are given information about the nature of the works.
- g. Article 23 has been amended to provide that the three-year time limit for the exercise of compulsory acquisition powers is calculated on the basis of the conclusion of any legal challenges under section 118 of the Planning Act 2008. The Secretary of State agrees with the Examining Authority that a three-year time period would be appropriate given the funding circumstances

of the application, but also considers that allowing for the conclusion of legal challenges would give the applicant the full benefit of that period.

- h. Schedule 2 (requirements) has been amended in the following ways:
 - i. In paragraph 2 (interpretation), definitions have been moved to corresponding provisions where those definitions only appear in that corresponding provision, including “design principles report”, “Ecological Clerk of Works”.
 - ii. In paragraph 4 (details of consultation), the phrase “where appropriate” has been included with respect to the obligation to share details of consultation when submitting documents to the relevant planning authority. Whilst this obligation would be more appropriate where the approval body is the Secretary of State, who is removed from the consultation process, the Secretary of State appreciates that in some circumstances, it will be unnecessary for the details of the consultation to be shared in this way. The Secretary of State expects that the Applicant will use its judgment as to when that material will be necessary for the relevant planning authority to discharge its functions in approving documents under Schedule 2.
 - iii. Throughout Schedule 2, references to the Secretary of State as the applicable approval authority have been changed to the relevant planning authority. The Secretary of State does not consider herself to be the appropriate authority for an application of this nature for the submission and approval of documents and plans. Rather, she considers that there is longstanding precedent, outside orders which deal primarily with the Strategic Road Network, that this function can be appropriately administered by the local planning authorities, according to their functions.
 - iv. A new paragraph 14 has been inserted, which imposes an obligation on the undertaker in respect of quarterly EA flood data.
- i. Schedule 9 (protective provisions) has been amended in the following ways:
 - i. Paragraph 32(1)(a) has been amended to remove the phrase “or where agreed with National Highways” - it was unclear to the Secretary of State what this clause was intended to refer to, so it has been removed.

SECRETARY OF STATE’S OVERALL CONCLUSION AND DECISION

116. For all the reasons set out in this letter, the Secretary of State has decided to grant development consent, subject to the changes in the Order mentioned above. The Secretary of State is satisfied that none of these changes constitutes a material change and is therefore satisfied that it is within the powers of section 114 of the 2008 Act for the Secretary of State to make the Order as now proposed.

CHALLENGE TO DECISION

117. The circumstances in which the Secretary of State’s decision may be challenged are set out in Annex A of this letter.

PUBLICITY FOR THE DECISION

118. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Kayla Marks
Head of the Transport Infrastructure Planning Unit

ANNEX A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The M5 Junction 10 Development Consent Order 2025 (as made) is being published on the Planning Inspectorate website at the following address: [M5 Junction 10 Improvements Scheme - Project information](#)

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).