



REPORT TITLE: M5 Junction 10 Improvements Scheme – Delegating Authority

Dates between which decision will be taken	Earliest date: 30 December 2021 Latest date: 12 January 2022
Cabinet Member	Councillor David Gray, Cabinet Member for Environment and Planning
Key Decision	Yes
Purpose of Report	<p>To seek delegated authority for Gloucestershire County Council (GCC) officers to respond to the Pre-application stage of the Development Consent Order (DCO) consultation on the M5 Junction 10 Improvements Scheme.</p> <p>GCC officers would be responding on behalf of the authority in its capacity as statutory consultee to the proposed scheme. The Pre-application DCO consultation is taking place between 8th December 2021 and 15th February 2022.</p> <p>A further Individual Cabinet Member (ICM) decision report will be required to seek delegated authority for officers to respond to future consultations as the M5 Junction 10 Improvements Scheme progresses through the DCO process. This second report is required as the level of officer participation as statutory consultee is not currently known.</p>
Recommendations	<p>That the Cabinet Member delegates authority to</p> <ul style="list-style-type: none">• the GCC officers set out in Appendix A to respond formally on behalf of Gloucestershire County Council (as a statutory consultee) to the M5 Junction 10 Improvements Pre-application DCO consultation;• the Lead Commissioner for Strategic Infrastructure to submit the response on behalf of the County Council as statutory consultee; and• the Lead Commissioner for Strategic Infrastructure to authorise additional staff (if necessary in consultation with LCM) that need to respond as he considers necessary.

Reasons for recommendations	<p>By approving officers with relevant knowledge and experience to respond on behalf of the authority, this will ensure that GCC in its capacity as statutory consultee responds to the DCO pre-application stage consultation in a robust and timely manner.</p> <p>Delegating authority to officers to respond to this consultation on the authority's behalf will ensure that there is a clear audit trail in respect of the decision making process.</p>
Resource Implications	<p>At this stage of the DCO process the only resource implications is in relation to GCC officer time.</p> <p>The use of consultants in responding to this specific consultation is not considered necessary at this stage. However, Homes England have confirmed that £35k capacity funding is available for DCO consultee support during 2021/22 should it be required.</p>
Background Documents	<p>Repository of information related to the M5 Junction 10 Improvements Scheme can be found via the below link:</p> <p>https://www.gloucestershire.gov.uk/highways/major-projects-list/m5-junction-10-improvements-scheme/</p> <p>The Pre-application DCO consultation documents will be available online during the consultation period.</p>
Statutory Authority	<p>The Planning Act 2008</p>
Divisional Councillor(s)	<p>All</p>
Officer	<p>Any representations should be sent to:</p> <p>Name: Robert Niblett Tel. no: 01452 425695 Email: robert.niblett@gloucestershire.gov.uk</p> <p>By 5pm on 29 December 2021</p>
Timeline	<p>The Pre-application DCO consultation is taking place between 8th December 2021 and 15th February 2022.</p>

Background

1. Gloucestershire County Council (GCC) is the local highways authority responsible for maintaining and enhancing the local road network within Gloucestershire. This includes major and minor highway projects, the management of the Public Rights of Way network, green infrastructure and biodiversity improvements. Outside maintenance schemes, the recently adopted Gloucestershire Local Transport Plan (LTP) sets the strategic direction for the delivery of transport improvements in the county.
2. The proposed M5 Junction 10 Improvements Scheme is a county priority identified in the LTP and an integral part of the infrastructure required to support future housing delivery. It is being promoted by GCC with support from National Highways and Homes England. Subject to approval, the scheme will also be delivered by GCC.
3. In addition to its local highway authority role, GCC undertakes a range of statutory duties in relation to Planning, Transport, Archaeology, Flood and Waste. As such, for the proposed M5 Junction 10 Improvements Scheme, GCC is acting as both scheme promoter and statutory consultee.
4. To ensure the authority can act in both its roles, an ethical wall has been created within the authority with officers providing specific duties either side of the divide – reporting to separate senior managers. This distinction maintains transparency within the decision making process.
5. It is GCC's role as statutory consultee on the proposed M5 Junction 10 Improvements Scheme that is the subject of this report.

Scheme development process

6. The M5 Junction 10 Improvements scheme is classified as a Nationally Significant Infrastructure Project (NSIP) and is being developed via the Planning Act 2008, under which GCC as scheme promoter is required to make an application to the Secretary of State for Transport for a Development Consent Order (DCO) to build this scheme.
7. The DCO application will be submitted to the Planning Inspectorate (PINS), who will examine the application and make a recommendation to the Secretary of State. The decision to grant consent to build the scheme is made by the Secretary of State and will be based on the recommendation of the Examining Authority (ExA) appointed to consider the DCO application.
8. Pre-application is the first stage in the DCO process. Before the DCO application is submitted by GCC as scheme promoter, it has a statutory duty to carry out a consultation on their proposals under Part 5 of the Planning Act 2008. This is an important opportunity for the local community and statutory consultees to comment on the proposed scheme as they have the opportunity to influence the final design.
9. Under the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, an Environmental Impact Assessment (EIA) will be undertaken for the scheme and submitted to the Planning Inspectorate as part of the DCO application.

10. As part of the development of the EIA and to inform the consultation, a Preliminary Environmental Information Report (PEIR) will be published ahead of the DCO application, at the time of the Pre-application DCO public consultation. The PEIR will set out the environmental information that has been gathered to date to inform consultees of the likely significant environmental implications of the scheme. It will also set out, in general terms, the potential mitigation measures that could be implemented to reduce any potential environmental impacts of the scheme, or why alternative solutions have been discounted.
11. Publicising the PEIR alongside the other consultation documents will allow consultees to make well-informed responses to the consultation. GCC as a statutory consultee will be responding on areas that it has responsibilities for including biodiversity, cultural heritage, population and health and flood risk amongst others.

Options

12. **Option 1:** Delegate authority to:

- the GCC officers set out in Appendix A to respond formally on behalf of Gloucestershire County Council (as a statutory consultee) to the M5 Junction 10 Improvements Pre-application DCO consultation;
- the Lead Commissioner for Strategic Infrastructure to submit the response on behalf of the County Council as statutory consultee; and
- the Lead Commissioner for Strategic Infrastructure to authorise additional staff (if necessary in consultation with LCM) that need to respond as he considers necessary.

This option is recommended as it provides the maximum time available for officers to consider the consultation material and coordinate a single authority response ahead of submitting before the consultation deadline.

13. **Option 2:** Do not delegate authority to officers to respond to the statutory consultation on behalf of the County Council. This option is rejected due to the limited time available for officers to fully consider the consultation material ahead of commencing the formal approval process. This may impact the quality of the response and/or delay the submission.

Risks

14. **Option 1:** This option provides officers with more time to consider the consultation material before providing their professional assessment. It also enables more time for the consultation response to be finalised and submitted in a timely manner. This option minimises the risk of GCC's views in its statutory consultee role being missed from consideration by PINS.
15. **Option 2:** poses a significant risk over Option 1 in relation to not being able to submit a statutory consultee response in a timely manner. The limited consultation period does not provide sufficient time for officers to review the consultation material and form view ahead of the timescales required to seek formal approval from the Cabinet Member for

Environment and Planning ahead of the consultation deadline. Failing to make any form of representation as statutory consultee would prejudice the Council's ability to provide views of support/objection to certain aspects of the subsequent process and may result in our views not being taken into account.

Financial implications

16. At this stage of the DCO process, the only resource implications are in relation to GCC officer time. The formal response to the consultation will be coordinated by the Strategic Planning Team. Delegated authority is therefore sought for the Lead Commissioner for Strategic Infrastructure to submit the response on behalf of the County Council as statutory consultee.
17. Considerable officer time will be taken up in responding to this statutory consultation. The extent of officer time required to feed into the consultation response will be linked to reviewing and analysing the consultation documents and drafting the formal consultee response. Additional time will be required for meetings, etc.
18. The use of consultants in responding to this specific consultation is not considered necessary. However, Homes England have confirmed that £35k capacity funding is available for DCO consultee support during 2021/22 should it be required.

Climate change implications

19. There will be no climate change implications as part of the decision to delegate authority to officers. Climate change issues will be dealt with as part of GCC's consultation response.

Equality implications

20. Has an Equalities Impact Assessment (EIA) been completed? **Yes**
21. Cabinet Members should read and consider the Equalities Impact Assessment in order to satisfy themselves as decision makers that due regard has been given.

Data Protection Impact Assessment (DPIA) implications

22. The decision to delegate authority to officers will not require a DPIA. Any DPIA implications will be considered during the subsequent DCO process.

Social value implications

23. There will be no social value implications as part of this delegation decision.

Consultation feedback

24. N/A

Officer recommendations

25. That the Cabinet Member delegates authority to the GCC officers set out in Appendix A to respond formally on behalf of Gloucestershire County Council (as a statutory consultee) to the M5 Junction 10 Improvements Pre-application DCO consultation.

Performance management/follow-up

26. The Cabinet Member for Environment and Planning will be kept informed regarding future stages of the DCO process. Another Individual Cabinet Member report seeking delegated authority will be sought later in the DCO process prior to the Examination stage.

Appendix A – List of GCC officers

GCC officers responding to the Pre-application stage of the DCO consultation on the M5 Junction 10 Improvements Scheme on behalf of the authority in its capacity as statutory consultee to the proposed scheme

Robert Niblett	Planning/coordination of the GCC response	Senior Planning Officer
Ben Watts	Planning/Transport/ Manager	Outcome Manager
Simon Excell	Planning/Lead Commissioner	Lead Commissioner – Strategic Infrastructure
Jen Dorman	Highway Drainage	Senior Infrastructure Engineer
Simon Shapland	Highway Development Management	Principal Development Coordinator
Peter Siret	Flood Risk	Flood Risk Management Officer
Robin Drake	Minerals and Waste	Principal Planning Officer – Minerals and Waste Policy
Gary Kennison	Ecology/Biodiversity	Principal Ecologist
Toby Catchpole	Cultural Heritage	Heritage Team Leader
Pete Wiggins	Climate Change	Outcome Manager
Jo Atkins	Think Travel	ThinkTravel Coordinator
Alan Bently	Public Rights of Way	Principal Public Rights of Way Officer
Katie Hopgood	Population and Human Health	Public Health Consultant

Other officers may be required to contribute to the consultation once the documents are available for comment and a view can be taken. Therefore delegated authority is sought for the Lead Commissioner for Strategic Infrastructure to authorise additional staff (if necessary in consultation with the LCM) that need to respond as he considers necessary.