

REPORT TITLE: M5 Junction 10 Improvements Scheme - Funding Update

Cabinet Date	27 th March 2024
Cabinet Member	Cllr David Gray (Cabinet Member for Environment and Planning)
Key Decision	Yes
Purpose of Report	<p>To keep Cabinet updated on the M5 Junction 10 Improvements Scheme Funding requirement.</p> <p>To set out funding proposals in relation to delivery of the M5 Junction 10 Improvements Scheme, including how the council intends to secure contributions from development sites benefitting from the scheme.</p>
Recommendations	<p>That the Cabinet:</p> <ol style="list-style-type: none"> 1. Acknowledge that revisions will be required in the future to the Highways Capital budget in relation to the scheme up to a value of £334.270 million, on the basis of £249.131 million secured HIF funding, £4 million secured GCC funding and notes the remaining gap of £81.139 million, in funding for the M5 J10 improvement scheme and confirms its intention to seek to raise those funds through section 106 contributions from developers. 2. Approves the principle of requesting Section 106 contributions toward the M5 Junction 10 Improvements Scheme from development sites benefitting from the scheme, with such contributions being sought under policy INF7 of the Joint Core Strategy (Appendix 1 - JCS Adoption Version November 2017.pdf (gloucester.gov.uk)) and/or any subsequent policy replacement. 3. Delegates authority to the Executive Director of Economy Environment & Infrastructure in consultation with the Cabinet Member for Environment and Planning and the Chief Finance Officer to negotiate and determine GCC's position with regard to the scope, mechanism and levels of contribution being sought from each development site under policy INF7 of the Joint Core Strategy and/or any subsequent policy replacement.
Reasons for Recommendations	<ol style="list-style-type: none"> 1. The Section 106 contributions are central to the approved funding strategy for the M5 J10 Improvements Scheme, which will ensure sufficient funding is in place to enable construction

	<p>to commence (subject to obtaining the necessary Development Consent Order consents from the Planning Inspectorate).</p> <ol style="list-style-type: none"> 2. Published decision-making associated with this cabinet paper will demonstrate agreement on the corporate position, which will strengthen representations that will be made in consultations for GCC’s Local Development Guide (“LDG”) and for the Local Planning Authorities (“LPA”) Regulation 18 associated with the Cheltenham, Gloucester, Tewkesbury Strategic and Local Plan (“CGTSLP”). 3. The scope, mechanism and levels of contribution being sought from each development site under policy INF7 of the Joint Core Strategy and/or any subsequent policy replacement remains subject to ongoing engagements with the developers and relevant planning and highway authorities.
<p>Resource Implications</p>	<p>The HIF funded schemes (which include the M5 Junction 10 Improvements Scheme, Arle Court Transport Hub and A38/A4019 Junction Improvements at Coombe Hill) have a total cost estimate of £334.270 million.</p> <p>£253.131 million has already been secured made up from £249.131 million of HIF funding and £4 million of GCC funding leaving a funding gap of £81.139 million.</p> <p>GCC proposes to secure this funding via Section 106 contributions toward the M5 Junction 10 Improvement Scheme from development sites benefiting from the scheme, with such contributions being sought under policy INF7 of the Joint Core Strategy and/or any subsequent policy replacement.</p> <p>The further £81.139 million will be required to fund the later stages of construction of the M5 Junction 10 Improvements Scheme during financial year 2027-2028. GCC have yet to commit to a construction contract for these works and a further executive decision will be required for this.</p> <p>Certain conditions need to be satisfied before GCC can commit to award of the construction contract. These include:</p> <ul style="list-style-type: none"> • the obtaining of the necessary statutory consent (Development Consent Order); • the agreement of a design, budget and programme with the Early Contractor Involvement (ECI) contractor; and • satisfaction of any other governance requirements that may be necessary. <p>For clarity, GCC has yet to commit to delivery of the works contract and therefore are not exposed to financial risk associated with the funding gap as a result of this cabinet decision.</p>

	<p>Ongoing committed work on the M5 Junction 10 Improvements Scheme, Arle Court Transport Hub and A38/A4019 Junction Improvements at Coombe Hill Junction is funded through the project by way of secured funding (either Homes England Housing Infrastructure Fund grant or GCC capital funding).</p> <p>GCC's role as statutory consultee in relation to the Development Consent Order process will be funded by the £380k one off revenue bid within the Medium-Term Financial Plan 2024-2025 that was approved in February Full Council.</p>
Background Documents	<p>M5 Junction 10 Improvements Scheme Webpage</p> <p>(CIL) Infrastructure funding statement - Infrastructure Funding Statement (IFS) Gloucestershire County Council</p> <p>(CIL) Infrastructure list – APPENDIX 2 Community Infrastructure Levy Joint Committee Infrastructure List.pdf (tewkesbury.gov.uk)</p> <p>Joint Core Strategy policy - Appendix 1 - JCS Adoption Version November 2017.pdf (gloucester.gov.uk)</p> <p>Cheltenham, Gloucester and Tewkesbury Strategic and Local Plan (CGTSLP) – strategiclocalplan.org</p> <p>Local Developers Guide - Gloucestershire's Local Development Guide 2021 Gloucestershire County Council</p>
Statutory Authority	<p>Town and Country Planning Act 1990</p> <p>The Planning and Compulsory Purchase Act 2004</p> <p>Planning Act 2008</p>
Divisional Councillor(s)	<p>Cllr Bernard Fisher</p> <p>Cllr Paul Mclain</p>
Officer	<p>Name: Kath Haworth, Assistant Director: Highways & Infrastructure.</p> <p>Tel. no: 01452 328792</p> <p>Email: Kathryn.Haworth@gloucestershire.gov.uk</p>
Timeline	<ul style="list-style-type: none"> • Developer Contribution Engagement 20 September 2023 – 20 April 2024 (envisaged closing date but this remains under review) • Finalisation of funding statement and submission of Development Consent Order (“DCO”) – 19 December 2023 • Acceptance of the DCO for examination by the Planning Inspectorate – 16 January 2024 • Consultation on Spatial Options and Key Policy Areas (in accordance with Regulation 18 of the Town and Country

	<p>Planning (Local Planning) Regulations 2012 (as amended) (“Regulation 18”) 16 January 2024 - 12 March 2024</p> <ul style="list-style-type: none"> • Consultation on revisions to Local Developers Guide – Summer 2024 • Adoption of revised Local Developers Guide – December 2024 • Consultation on Preferred Options (Regulation 18) - Commencing March 2025 • Consultation of Pre-submission (Regulation 19 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended)) - Commencing January 2026 • Submission to Secretary of State (Regulation 22 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended)) - April 2026 • Application of relevant policies as they pertain to the M5 J10 improvements scheme until 2042 or until unsecured funding is resolved, whichever is sooner.
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Scheme background

1. The district councils’ (Gloucester City Council, Tewkesbury Borough Council and Cheltenham Borough Council) Joint Core Strategy (“JCS”) is a strategic planning document which details proposed development of new housing in the West and North-West of Cheltenham of circa 9,000 new homes and circa 100 hectares of new employment land.
2. To unlock the housing and job opportunities in the West and North-West of Cheltenham, additional highway capacity around Junction 10 of the M5 is required to accommodate the expected increased motorised and non-motorised traffic.
3. The infrastructure improvements funded through the Housing Infrastructure Fund (“HIF”) Grant Determination Agreement (“GDA”) to assist in unlocking the delivery of the above are:
 - M5 Junction 10 Improvements Scheme,
 - Arle Court Transport Hub, and
 - A38/A4019 Junction Improvements at Coombe Hill.
4. The M5 Junction 10 Improvements Scheme is pursuing relevant planning consent under the Planning Act 2008. The Development Consent Order (“DCO”) was accepted for examination by the Planning Inspectorate (“PINS”) on the 16th of January 2024.

5. A38/A4019 Junction Improvements at Coombe Hill secured planning consent under the Town and Country Planning Act 1990 on 21 April 2023.
6. Arle Court Transport Hub secured planning consent under the Town and Country Planning Act 1990 for enabling works and surface level improvements on 05 November 2021, and for the multi-storey car park and transport hub facilities on 22 July 2022.

Section 106 contributions

7. GCC has commissioned independent site appraisals (or viability assessments) which have provided confidence that the identified developments can support the level of financial contributions being sought and that sites will remain viable when all other financial contributions and commitments (such as those in relation to affordable housing, education etc.) are considered.
8. GCC intend to secure Section 106 contributions from identified development sites in the locality of M5 Junction 10 where such sites are dependent upon the provision of the M5 Junction 10 Improvements Scheme. Further dependent sites may be identified in the future.

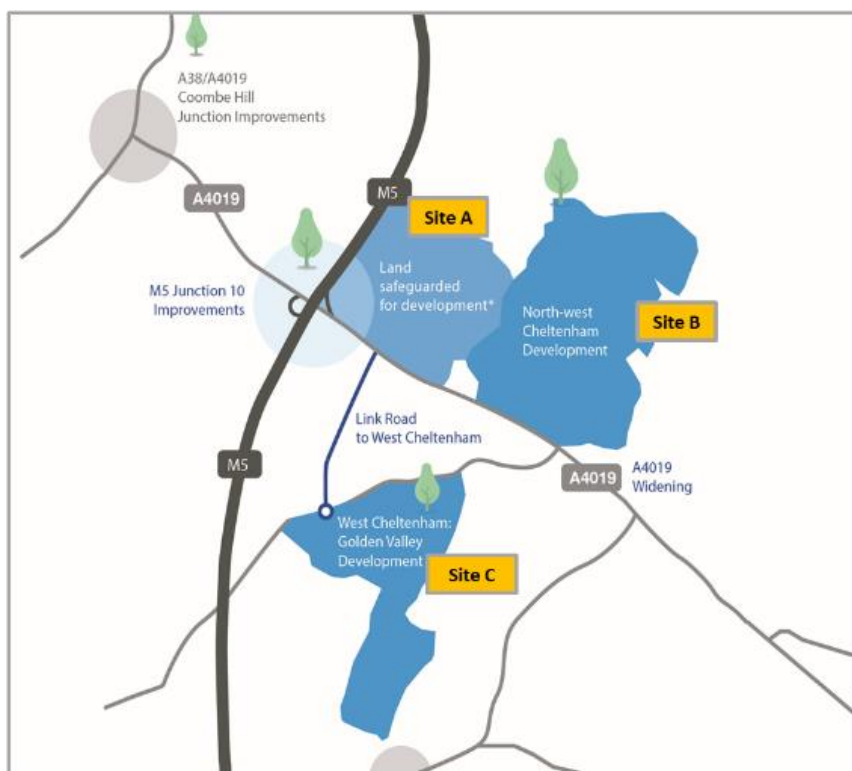


Figure 1 - Dependant Development Sites

9. GCC is working with scheme funders Homes England, the JCS Local Planning Authorities, the relevant Highway Authorities and identified developments to agree the scope, mechanism and levels of contribution being sought from each development site under policy INF7 of the Joint Core Strategy and/or any subsequent policy replacement.

10. The principle of securing financial contributions from dependent developments in order to mitigate the transport impacts that may arise from such developments, is in alignment with national planning policy for example, Section 106 planning obligations (under Section 106 of the Town and Country Planning Act 1990).
11. The JCS sets out local policy provision and guidance for developer contributions within policy INF7. GCC also provides guidance within the [Gloucestershire County Council Local Development Guide 2021](#) - Infrastructure to support new development.
12. The LPAs consider that the seeking of contributions from developers with developments dependant on the Scheme, towards the funding gap satisfies, in broad terms, the tests under Section 106 of the Town and Country Planning Act 1990 (as amended) and the policy tests as set out by the National Planning Policy Framework (NPPF). In effect this is an appropriate mechanism through which to secure contributions.
13. We have identified contributions that have been secured elsewhere within the South-West on developments of similar scale and mix (employment and housing) with such contributions being at or above the levels of contribution which are required towards the M5 Junction 10 scheme.
14. We also have local experience of the viability of contribution levels through the proposed approach (at an earlier stage of development) which has already been used successfully, to secure a Section 106 contribution from the Swindon Farm development (comprising 266 houses) located within the North-West Cheltenham development.
15. Officer discussions related to the viability of contribution levels have also been supported by external input from the legal team supporting our DCO submission and the legal team supporting Homes England. This alongside the region and local experience noted above provides a level of assurance that our approach to meet the funding gap is appropriate.

Options

16. The options for Cabinet are as follows:
 - Option A: Cabinet acknowledges the revision to the highway's capital budget that will be requested going forward, approves the principle of requesting section 106 contributions towards the M5 Junction 10 Improvements Scheme and delegates authority to the Executive Director of Economy, Environment and Infrastructure to make a decision on the scope, mechanism and level of contributions being sought. This means that the onward delivery of the M5 Junction 10 Improvements Scheme and other HIF funded schemes can continue as planned.

- Option B: Cabinet decline to acknowledge the revision to the highways capital budget required going forward, does not approve the principle of requesting section 106 contributions towards the M5 Junction 10 Improvements Scheme and does not delegate authority to the Executive Director of Economy, Environment and Infrastructure to make a decision on the scope and level of contributions being sought. This means that both the scheme's Grant Determination Agreement and the DCO funding statement are compromised, the DCO and wider delivery programme is at risk and an alternate funding strategy will need to be developed.

Risks and assumptions

17. GCC decision making in relation to the scheme funding situation needs to align with those agreed with principal scheme funder Homes England. This will ensure GCC can continue to progress the scheme in accordance with the Grant Determination Agreement as subsequently amended by Deed of Variation.
18. GCC decision making in relation to the scheme funding situation needs to align with the scheme Funding Statement which has been submitted as part of the Development Consent Order application.
19. Delegation of decision making in respect of the final approach to be taken to implement the developer contribution approach is necessary to enable flexibility in time scales for finalising the approach in light of planning timescales associated with the relevant developments and also timescales associated with the Development Consent Order process.
20. The contract for delivery of the construction works cannot be awarded until the funding has been secured to the satisfaction of GCC and principal scheme funder Homes England.

Financial implications

21. In November 2019, Gloucestershire County Council ("GCC") submitted a bid for funding from the HIF for improvements to Junction 10 of the M5. Funding was initially awarded for £220 million with a further £4 million contribution from GCC.
22. In October 2020, a GDA was signed and this secured HIF grant funding of £249.131 million. With the £4 million contribution from GCC the scheme budget was £253.131 million.
23. Since entering the HIF GDA in October 2020, inflation has jumped dramatically due to a number of world events. In light of this high-cost inflation and ongoing design the delivery programme is now longer and more costly which has created the need for additional funding.

24. The total revised cost estimate of the HIF schemes is £334.270m as summarised below of which only £253.131 million has been secured to date.

	Total	HIF	GCC	S106
Latest forecast of scheme funding split	£m	£m	£m	£m
Arle Court Transport Hub	35.483	31.483	4.000	0.000
A38/A4019 Junction Improvement	5.577	5.577	0.000	0.000
M5 Junction 10 Improvement Scheme	293.210	212.071	0.000	81.139
Total	334.270	249.131	4.000	81.139

25. GCC's financial contribution to this project remains at £4 million capital investment and procurement will only be progressed for each scheme as and when 100% of the funding has been identified and secured.

Climate change implications

26. The scheme has been developed in accordance with the relevant National Policy Statement for National Networks (NPS NN) and is considered compliant. An Environmental Statement has been prepared for the M5 J10 Improvements Scheme and this concludes that the scheme is unlikely to cause significant effects on climate, or significantly affect the UK's ability to meet its emissions reduction targets. It is considered that this magnitude of emissions from the scheme will not materially impact the Government's ability to meet the budget, and therefore will not have a significant effect on climate.

Ecological implications

27. Has the Climate Impact Assessment Tool (CIAT) been completed? Yes

28. Has an Ecological Impact Assessment (EclA) been produced, or will one be undertaken at a later stage? Yes – refer to paragraph 29 and 30 below.

29. A scoping opinion has been obtained in respect of the M5 J10 Improvements Scheme. This confirmed an Environmental Impact Assessment (EIA) was required and this has been presented in the form of the Environmental Statement.

30. The [Environmental Statement](#) has assessed impacts in relation to ecology and biodiversity net gain. The scheme is on target to meet or better the 10% net gain requirements of the Environment Act.

Equality implications

31. Has an Equalities Impact Assessment (EqIA) been completed? Yes
32. The Equality Impact Assessment for the M5 Junction 10 Improvements Scheme can be found in Appendix A – *M5J10 Equalities Impact Assessment Jan 24*. Members should note that the scheme Equality Impact Assessment was last updated for this cabinet paper in January 2024.
33. 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

34. Gloucestershire County Council (GCC) and the M5 Junction 10 Improvements Scheme project team are fully committed to adhering to the UK data protection law. Personal data has only been gathered when necessary to ensure services and tasks were delivered and the approach discussed and agreed with GCC's Information Management Adviser. Personal data has been processed according to UK data protection law and will be retained only for the duration of the scheme to ensure all data held is accurately maintained until the scheme has been completely finalised. Personal data will not be used for any purpose other than that for which it was originally collected.
35. Consultation and engagement events have been held to date as described by the table below.

Date	Title	Description
March 2019 and October 2020	M5 Junction 10 Improvements Scheme Early Engagement	Early engagement to inform stakeholders and Persons with an Interest in Land (PwIL) of the early scheme development.
14 October to 25 November 2020	Non-Statutory consultation	Early consultation with the public at this non statutory stage allowed members of the public to provide feedback on the options and influence the development of the Scheme.
16 June 2021	Preferred Route Announcement (PRA)	
08 December 2021 to 15 February 2022	Statutory consultation	Opportunity for the local community, residents, stakeholders including local interest groups and businesses and road users to comment on the proposals.
March 2021	Arle Court Transport Hub Targeted Engagement – Pre-election	Residents of Hatherley Lane were issued a letter via Royal Mail providing residents the opportunity to meet virtually with key members of the Project Team to answer any questions or concerns they may have around the proposals.
April 2021	Arle Court Transport Hub Targeted	A further targeted engagement event was carried out with Gloucestershire Design and

	Engagement – Post-election	review panel, Cheltenham Architects Panel, Cheltenham Civic Society and additional residents on Hatherly Lane.
March & April 2022	Arle Court Transport Hub Engagement with Gloucester City Airport.	Engagement meetings were held with Gloucester City Airport.
October 2021	Coombe Hill public share event.	A public share event during October 2021 allowed local residents and businesses to view recent design and encourage them to responded to the online survey to seek suggestions for further design refinements.
08 August 2022 until 05 September 2022	Targeted consultation	Following changes from the statutory consultation a targeted consultation was held.
18 January 2023 and 16 February 2023	Targeted Consultation (Bus Lane update)	As a result of feedback received during the statutory consultation, additional targeted consultation and ongoing engagement with stakeholders

Social value implications

36. GCC is committed to a performance and evidence-based approach to Social Value for contracts across the M5 Junction 10 Improvements Scheme. Based on the National TOMs (Themes, Outcomes and Measures) developed by the Social Value Portal, successful tenderers across the project will be required to propose credible targets against which performance will be monitored. Where a tender framework allows, it is expected that the evaluation weightings for quality and price will be reduced in equal proportions, to preserve the respective ratios that existed prior to the introduction of this social value policy.
37. The TOMs to be adopted across M5 Junction 10 Improvements Scheme contracts will reflect the specific needs of GCC and tenderers will be given access to them after registering on the Social Value Portal. Whilst GCC will not be prescriptive as to which TOMs measures are being sought from Tenderers by way of Social Value proposal, a key success factor for tenderers will be to demonstrate the ability to deliver against the commitments made. Responsible officers will monitor social value commitments, with agreed reporting periods to track progress ensuring commitments are undertaken in their entirety and using the Council leverage when suitable to support delivery.
38. The approach described here was applied on the main tender for M5 Junction 10, and the contractor has made a series of commitments against the TOMs which are now being managed in delivery.

39. Social Value will also be applied for any additional procurement for M5 Junction 10 carried out in future, using the approach described here.

Consultation feedback

40. GCC have undertaken substantial engagement with principal scheme funder Homes England regarding scheme funding arrangements and other matters. Changes to the funding arrangements were agreed via Homes England's Housing Infrastructure fund delivery board and HM Treasury. GCC set out details within the funding statement associated with the DCO.
41. An engagement with the identified developers and planning authorities is currently underway. This commenced on 20th September 2023 and is currently envisaged to end on 20th April 2024.
42. Representations from the developers and planning authorities have been received and GCC are continuing to consider these ahead of finalising the scope, mechanism and level of contributions being sought.

Officer recommendations

43. That Cabinet agree to the officer recommendation as set out in Option A of this report (para 16).

Performance management/follow-up

44. The scheme's Programme Execution Plan sets out the governance, assurance and roles and responsibilities within the programme organisation. The M5 Junction 10 Improvements Scheme Programme Board meets six-weekly and is attended by: Colin Chick, Executive Director of Economy, Environment, and Infrastructure; Rob Ayliffe, Director of Policy Performance & Governance; and Paul Blacker, Finance Director and Director and Section 151 officer. In the event of their absence, appropriate substitute Officers attend on their behalf. The Board's purpose includes the review and monitoring of project performance and progress against GCC strategy and policies as well as the assessment of financial reporting both in and out of project stage.
45. In addition, a M5 Junction 10 Improvements Scheme update is presented to the Cabinet Member for Environment and Planning as a standing agenda item at the Strategic Economic, Environment & Infrastructure Members Board (SEEIMB) on a quarterly basis. Regular programme updates are provided to Homes England through programme review meetings held fortnightly. Robust governance is also supported by the submission and ongoing assessment of the scheme, as part of Homes England's assurance framework together with regular financial reporting.