

# Agenda

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## West Area Planning Committee

Date: **Tuesday 11 October 2016**

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Time: **6.00 pm**

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Place: **The Old Library, Town Hall**

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For any further information please contact the Democratic Services Officer:

**Catherine Phythian, Committee and Member Services Officer**

Telephone: 01865 252402

Email: [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk)

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As a matter of courtesy, if you intend to record the meeting please let the Democratic Services Officer know how you wish to do this before the start of the meeting.

# West Area Planning Committee

## Membership

<b>Chair</b>	Councillor Louise Upton	North;
<b>Vice-Chair</b>	Councillor Tom Landell Mills	St. Margaret's;
	Councillor Colin Cook	Jericho and Osney;
	Councillor Jean Fooks	Summertown;
	Councillor Alex Hollingsworth	Carfax;
	Councillor Jennifer Pegg	Northfield Brook;
	Councillor Bob Price	Hinksey Park;
	Councillor John Tanner	Littlemore;
	Councillor Marie Tidball	Hinksey Park;

The quorum for this meeting is five members. Substitutes are permitted

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# AGENDA

Pages

1 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

2 DECLARATIONS OF INTEREST

3 EAST WEST RAIL PHASE 1 - NOISE SCHEME OF ASSESSMENT (16/01634/CND) AND VIBRATION SCHEME OF ASSESSMENT FOR ROUTE I-2 (16/01635/CND)

13 - 34

3a 16/01634/CND: Noise Scheme of Assessment for route section I-2

**Site address:** Chiltern Railway from Oxford to Bicester (Appendix 1)

**Proposal:** Details submitted in compliance with condition 1 (Noise and Vibration - route section I/2) of TWA ref: TWA/10/APP/01 (The Chilterns Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990).

**Officer recommendation:**

West Area Planning Committee is recommended to approve this application for the following reasons and subject to the conditions listed:

**Reasons for approval – Noise Scheme of Assessment - 16/01634/CND**

1. The submitted Noise Scheme of Assessment is considered to be robust. It predicts that the operational noise from EWRP1 will cause increases of 3dB or more at a number of properties in route section I-2; but predicts no increases of 5dB or more at any properties in route section I-2. No noise mitigation is proposed. Taking into account the representations made by all parties, the adopted policies of the Oxford Local Plan 2001-2016 which seek to preserve residential amenity where properties are close to noise generating development, and the requirements of condition 19 of deemed planning permission TWA/10/APP/01, it is recommended that the application be approved subject to conditions requiring development in accordance with submitted details, and the submission of proposals for the installation of rail damping.
2. Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the

objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

**Conditions:**

1. Development in accordance with application documents
2. Implementation of rail damping

**3b 16/01635/CND: Vibration Scheme of Assessment for route section I-2**

**Site address:** Chiltern Railway from Oxford to Bicester  
**(Appendix 1)**

**Proposal:** Details submitted in compliance with condition 1 (Noise and Vibration - route section I/2) of TWA ref: TWA/10/APP/01 (The Chilterns Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990).

**Officer recommendation:**

**Reasons for approval – Vibration Scheme of Assessment – 16/01635/CND**

- 1 The submitted Vibration Scheme of Assessment is considered to be robust and has demonstrated that the required standards of vibration mitigation set out in the Noise and Vibration Mitigation Policy will be achieved. Taking into account the representations made by all parties, the adopted policies of the Oxford Local Plan 2001-2016 which seek to preserve residential amenity where properties are close to vibration-generating development, and the requirements of condition 19 of deemed planning permission TWA/10/APP/01, it is recommended that the application be approved subject to a condition requiring development in accordance with submitted details.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

**Condition:**

1 Development in accordance with application documents

4 **16/01495/RES: WESTGATE CENTRE AND ADJACENT LAND, OX1 1NX**

35 - 42

**Site address:** Westgate Centre And Adjacent Land Encompassing The Existing Westgate Centre And Land Bounded By Thames St, Castle Mill Stream, Abbey Place, Norfolk St, Castle St, Bonn Square, St Ebbes St, Turn Again Lane And Old Greyfriars St (**site plan: appendix 1**)

**Proposal:** The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance of a proposed canopy over Bridge 13 (connecting Buildings 3 and 4) only. All other reserved matters previously approved remain unaffected.

**Officer recommendation:**

The West Area Planning Committee is recommended to **grant** planning permission for the reasons stated in the officer report and subject to the following conditions:

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials as specified

5 **16/01267/FUL: CHANGE OF USE FROM COUNCIL DEPOT TO ARTISAN DISTILLERY (REVISED PROPOSAL OMITTING CAFÉ AND VISITOR CENTRE) AND 16/01480/FUL: ERECTION OF SINGLE STOREY BARN TO PROVIDE STORAGE SPACE.(AMENDED PLANS) - OXFORD CITY COUNCIL DEPOT, SOUTH PARK, CHENEY LANE, OXFORD.**

43 - 54

**Site Address:** Oxford City Council Depot, South Park, Cheney Lane.

**Proposal:**

1. 16/01267/FUL: Change of use from council depot to artisan distillery (revised proposal omitting café and visitor centre).
2. 16/01480/FUL: Erection of single storey barn to provide storage space. (Amended plans).

**Officer recommendation:** to grant planning permission with the following conditions:

**16/01267/FUL:**

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Bats
4. Swept Path Analysis
5. Delivery and Service Management Plan
6. Hours of use

**16/01480/FUL:**

1. Temporary Permission
2. Development begun within time limit
3. Develop in accordance with approved plans
4. Samples in Conservation Area
5. Tree Protection Plan

**6 16/02097/FUL: 7 CHADLINGTON ROAD**

55 - 64

**Site address:** 7 Chadlington Road, Oxford, OX2 6SY (Appendix 1)

**Proposal:** Erection of a single storey rear extension. Formation of basement. Alterations to landscaping with provision of additional vehicle access from Chadlington Road.

**Officer recommendation:**

The West Area Planning Committee is recommended to **grant** planning permission for the reasons stated in the report and subject to the following conditions:

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Samples in Conservation Area - North Oxford Victorian Suburb
4. Tree Protection Plan (TPP) 2
5. Arboricultural Method Statement (AMS) 2
6. Ground resurfacing - SUDS compliant
7. Amenity no balcony
8. Visibility Splays
9. On street parking

**7 16/00391/FUL: 24 ROSAMUND ROAD**

65 - 72

**Site address:** 24 Rosamund Road, Oxford. **Appendix 1.**

**Proposal:** Erection of rear conservatory and garden outbuilding. Alterations to windows (Amended Plans).

**Officer recommendation:**

The West Area Planning Committee are recommended to **grant** planning permission for the reasons stated in the officer's report and subject to the following conditions:

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials as specified

**8 MINUTES**

73 - 80

Minutes from the meeting of 13 September 2016

**Recommendation:** That the minutes of the meeting held on 13 September 2016 are approved as a true and accurate record.

**9 FORTHCOMING APPLICATIONS**

Items for consideration by the committee at future meetings are listed for information. They are not for discussion at this meeting.

- 16/01896/CT3: 21 to 27 Chatham Road and 10 To 40 Fox Crescent, Oxford
- 16/01883/CT3: 17 Jericho Street, OX2 6BU
- 16/02377/FUL: 134 Wytham Street, OX1 4TW
- 16/01413/FUL: Land Adjacent 279 Abingdon Road, Oxford
- 16/02293/FUL: 40 St Thomas Street, OX1 1JP
- 16/02296/CT3: Car Park, Walton Well Road, Oxford
- 16/00882/FUL: 135 - 137 Botley Road, Oxford
- 16/01046/FUL: 30 Warnborough Road, OX2 6JA
- 16/00791/FUL: 1 Richmond Road, OX1 2JJ
- 16/01725/FUL and 16/01727/LBC: St Edward's School, Woodstock Road, OX2 7NN
- 16/01352/FUL: 164 Marlborough Road, OX1 4LT
- 15/03524/FUL: Oxford Spires Four Pillars Hotel, Abingdon Road, Oxford, OX1 4PS
- 16/02139/RES: Westgate Centre And Adjacent Land, OX1 1NX
- 16/02216/CT3: Land Fronting 21 To 39 And 8 To 24 St Peter's Road, Oxford
- 16/02218/CT3: 85A Aldrich Road, OX2 7SU

- 16/02170/FUL: 1A Cranham Street, OX2 6DD
- 16/02152/CT3: 161 - 161B Iffley Road, Oxford
- 16/00068/FUL 16/00069/LBC: Grove House, 44 Iffley Turn, OX4 4DU
- 16/01541/FUL: The Honey Pot, 8 Hollybush Row, OX1 1J
- 16/01819/VAR: 184 Woodstock Road, OX2 7NQ
- 16/01220/FUL & 16/01221/FUL: 16 Northmoor Road, OX2 6UP
- 16/01909/FUL: Linton Lodge Hotel, 11-13 Linton Road, OX2 6UJ
- 15/01601/FUL: 26 Norham Gardens, OX6 6QD

## **10 DATES OF FUTURE MEETINGS**

The Committee will meet at 6.00pm on the following dates:

8 Nov 2016  
13 Dec 2016  
24 Jan 2017  
21 Feb 2017  
14 Mar 2017  
11 Apr 2017  
9 May 2017



## **COUNCILLORS DECLARING INTERESTS**

### **General duty**

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

### **What is a disclosable pecuniary interest?**

Disclosable pecuniary interests relate to your\* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

### **Declaring an interest**

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

### **Members' Code of Conduct and public perception**

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

\*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

## **CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS AT AREA PLANNING COMMITTEES AND PLANNING REVIEW COMMITTEE**

Planning controls the development and use of land in the public interest. Applications must be determined in accordance with the Council's adopted policies, unless material planning considerations indicate otherwise. The Committee must be conducted in an orderly, fair and impartial manner. Advice on bias, predetermination and declarations of interest is available from the Monitoring Officer.

The following minimum standards of practice will be followed.

### **At the meeting**

1. All Members will have pre-read the officers' report. Members are also encouraged to view any supporting material and to visit the site if they feel that would be helpful (in accordance with the rules contained in the Planning Code of Practice contained in the Council's Constitution).
2. At the meeting the Chair may draw attention to this code of practice. The Chair will also explain who is entitled to vote.
3. The sequence for each application discussed at Committee shall be as follows:-
  - (a) the Planning Officer will introduce it with a short presentation;
  - (b) any objectors may speak for up to 5 minutes in total;
  - (c) any supporters may speak for up to 5 minutes in total;
  - (d) speaking times may be extended by the Chair, provided that equal time is given to both sides. Any non-voting City Councillors and/or Parish and County Councillors who may wish to speak for or against the application will have to do so as part of the two 5-minute slots mentioned above;
  - (e) voting members of the Committee may raise questions (which shall be directed via the Chair to the lead officer presenting the application, who may pass them to other relevant Officers and/or other speakers); and
  - (f) voting members will debate and determine the application.

### **Preparation of Planning Policy documents – Public Meetings**

4. At public meetings Councillors should be careful to be neutral and to listen to all points of view. They should take care to express themselves with respect to all present including officers. They should never say anything that could be taken to mean they have already made up their mind before an application is determined.

### **Public requests to speak**

5. Members of the public wishing to speak must notify the Democratic Services Officer before the meeting starts giving their name, the application/agenda item they wish to speak on and whether they are objecting to or supporting the application. Notifications can be made via e-mail or telephone, to the Democratic Services Officer (whose details are on the front of the Committee agenda) or given in person before the meeting starts.

### **Written statements from the public**

6. Members of the public and councillors can send the Democratic Services Officer written statements and other material to circulate to committee members, and the

planning officer prior to the meeting. Statements and other material are accepted and circulated by noon, two working days before the start of the meeting.

7. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to view give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material consideration arising. Any such material will not be displayed or shown at the meeting.

### **Exhibiting model and displays at the meeting**

8. Applicants or members of the public can exhibit models or displays at the meeting as long as they notify the Democratic Services Officer of their intention by noon, two working days before the start of the meeting so that members can be notified.

### **Recording meetings**

9. Members of the public and press can record the proceedings of any public meeting of the Council. If you do wish to record the meeting, please notify the Committee clerk prior to the meeting so that they can inform the Chair and direct you to the best place to record. You are not allowed to disturb the meeting and the chair will stop the meeting if they feel a recording is disruptive.
10. The Council asks those recording the meeting:
  - Not to edit the recording in a way that could lead to misinterpretation of the proceedings. This includes not editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being recorded.
  - To avoid recording members of the public present unless they are addressing the meeting.

### **Meeting Etiquette**

11. All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.
12. Members should not:
  - (a) rely on considerations which are not material planning considerations in law;
  - (b) question the personal integrity or professionalism of officers in public;
  - (c) proceed to a vote if minded to determine an application against officer's recommendation until the reasons for that decision have been formulated; or
  - (d) seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

***Code updated to reflect changes in the Constitution agreed at Council on 25 July 2016***

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**Application Numbers:** 16/01634/CND: Noise Scheme of Assessment for route section I-2

16/01635/CND: Vibration Scheme of Assessment for route section I-2

**Decision Due by:** 17th August 2016

**Proposals:** Details submitted in compliance with condition 1 (Noise and Vibration - route section I/2) of TWA ref: TWA/10/APP/01 (The Chilterns Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990).

**Site Address:** Chiltern Railway From Oxford To Bicester **Appendix 1**

**Ward:** North, and Jericho and Osney Wards

**Agent:** ERM

**Applicant:** Network Rail

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## **Recommendation**

West Area Planning Committee is recommended to approve these applications for the following reasons:

### **Reasons for approval – Noise Scheme of Assessment - 16/01634/CND**

- 1 The submitted Noise Scheme of Assessment is considered to be robust. It predicts that the operational noise from EWRP1 will cause increases of 3dB or more at a number of properties in route section I-2; but predicts no increases of 5dB or more at any properties in route section I-2. No noise mitigation is proposed. Taking into account the representations made by all parties, the adopted policies of the Oxford Local Plan 2001-2016 which seek to preserve residential amenity where properties are close to noise generating development, and the requirements of condition 19 of deemed planning permission TWA/10/APP/01, it is recommended that the application be approved subject to conditions requiring development in accordance with submitted details, and the submission of proposals for the installation of rail damping.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

### **Conditions:**

- 1 Development in accordance with application documents
- 2 Implementation of rail damping

### **Reasons for approval – Vibration Scheme of Assessment – 16/01635/CND**

- 1 The submitted Vibration Scheme of Assessment is considered to be robust and has demonstrated that the required standards of vibration mitigation set out in the Noise and Vibration Mitigation Policy will be achieved. Taking into account the representations made by all parties, the adopted policies of the Oxford Local Plan 2001-2016 which seek to preserve residential amenity where properties are close to vibration-generating development, and the requirements of condition 19 of deemed planning permission TWA/10/APP/01, it is recommended that the application be approved subject to a condition requiring development in accordance with submitted details.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

### **Condition:**

- 1 Development in accordance with application documents

### **Note about additional conditions previously imposed by the Committee**

The Committee will recall that when approving the NSoAs and VSoAs for route sections H and I1, conditions were applied restricting (i) train movements in accordance with condition 19 of deemed permission, and (ii) requesting continuous monitoring. The conditions read (as relevant):

- *“Passenger train movements on Section H/I1 between 0700 hours and 2300 hours shall not be in excess of 8 movements per hour. Freight train movements between 2300 hours 0700 hours on the following day shall not exceed 8.*

*Reason - to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)”*

- *“Section H/I1 shall not be made available for use by trains until provision for continuous monitoring of noise/vibration for noise/vibration sensitive properties throughout section H/I1 has been affected in accordance with a scheme previously approved in writing by the Council. The results of such monitoring shall be provided to the Council on each of six months, eighteen months, thirty months, forty-two months, fifty-four months, sixty-six months*

*and seventy-eight months from the date on which Section H/11 is first made available for use for trains. In the event that the monitoring results provided to the Council exceed the noise/vibration thresholds in the Noise and Vibration Mitigation Policy then additional mitigation measures shall be affected within six months in order to ensure that those levels are not again exceeded.*

*Reason: to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)”*

The Committee was advised by officers at the time that in their opinion these conditions would not meet the legal or policy tests of the NPPF. Officers remain of that view and are not recommending their re-imposition.

## **Main Local Plan Policies**

### Oxford Local Plan 2001-2016

**CP6** - Efficient Use of Land & Density

**CP10** - Siting Development to Meet Functional Needs

**CP19** - Nuisance

**CP21** - Noise

### Core Strategy

**CS13** - Supporting access to new development

**CS27** - Sustainable economy

## **Other Main Material Considerations**

- National Planning Policy Framework
- National Planning Policy Guidance
- Environmental Information
- The deemed planning permission of 23 October 2012 and documents related to it including the Noise and Vibration Mitigation Policy (January 2011)

## **Relevant Site History**

13/00918/CND - Details submitted in compliance with condition 3 (development sections) of TWA ref: TWA/10/APP/01 (The Chiltern Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990).. PER 7th May 2013.

15/01978/CND - Details submitted in compliance with condition 3 (Individual Section schemes) of TWA ref: TWA/10/APP/01 (The Chiltern Railways (Bicester to Oxford Improvements) Order - deemed planning permission granted under section 90(2A) of the Town and Country Planning Act 1990).. PER 5th November 2015.

## Representations Received:

Representations have been received from 17 addresses including Merrivale Square, Rutherway, Plater Drive, The Crescent, Woodstock Road. 3 representations had no residential address given. The Rewley Park Management Company also commented.

The main points raised were:

- NR is going back on its promise to lay new track - new track is essential for this part of the line;
- properties in this area suffer considerable noise and vibration from trains;
- this area needs noise and vibration mitigation given the large and increasing amount of rail traffic;
- need speed limits on trains;
- support the rail improvements but must be sensitive to the needs of nearby residents;
- the condition was imposed because mitigation is needed – nothing has changed to lessen those needs;
- NR gets planning permission and then changes the planning conditions.

## The Purpose of this Report

1. The purpose of this report is to consider and recommend on the acceptability of the Noise Scheme of Assessment (NSoA) and Vibration Scheme of assessment (VSoA) for route section I-2, submitted by NR in accordance with condition 1 of planning reference 15/01978/CND. The report was deferred from the West Area Planning Committee meeting on 13<sup>th</sup> September for further information and analysis.
2. The report examines:
  - the background to the application
  - the requirements of condition 19 in relation to noise and vibration including reference to **Appendix 4** which sets out the technical background including:
    - why noise and vibration are considered separately;
    - the requirements of the NVMP in relation to noise;
    - what is an NSoA and how is it judged?;
    - the requirements of the NVMP in relation to vibration;
    - what is a VSoA and how is it judged?; and,
    - the requirements of the NVMP in relation to monitoring;
  - the details of the NSoA and VSoA submitted for route section I-2 including any mitigation proposed and responses to representations received; and,
  - recommends as to the acceptability of the conclusions drawn.



## Background

### *The deemed planning consent for EWRP1*

3. The Transport and Works Act Order (TWAO) and deemed planning permission for East West Rail Phase 1 (EWRP1) (“the scheme”) was granted, subject to conditions, on 17<sup>th</sup> October 2012.
4. *Sustainability*: in granting deemed planning permission for the scheme, the Secretary of State concluded that there is a compelling case to increase rail capacity between Oxford and London, and that the scheme would bring substantial transport benefits in terms of reduced travel times, better public transport connectivity, and better rail network capability. In the decision, the Secretary of State weighed these sustainability benefits against the potential adverse impacts that the scheme might cause. Those considerations gave rise to several of the planning conditions dealing with the natural environment and residential amenity.
5. The original permission was described in terms of Phases 1, 2A and 2B – these phases are all now encompassed in the term East West Rail Phase 1 (EWRP1). The scheme involves:
  - i. replacing the existing Bicester/Oxford track for its length within the city up to a point opposite Stone Meadow where it deviates west of the existing line and joins the main line near the existing Aristotle Lane crossing;
  - ii. constructing a new line to the west of the existing line which also joins the main line opposite Stone Meadow; and,
  - iii. works in the Wolvercote tunnel.
6. Some proposals which were in the original permission are not now being implemented, namely:
  - a new track from opposite Stone Meadow into the Oxford Station close to the eastern side of the exiting extent of railway land;
  - a new short spur from that track into the station (together with a new platform) which commenced just north of the Rewley Road Swing Bridge; and,
  - a shorter link which was to have joined the new line (ii above) to the main line in the vicinity of Stone Meadow.

### *Agreement of the route sections*

7. Condition 3 of the deemed permission required proposals to be approved to divide the scheme into individual development sections. Network Rail’s (NR) proposals for route sections within Oxford were approved under delegated

powers on 7<sup>th</sup> May 2013 (reference 13/00918/CND). Under those proposals route sections H, I and J are located in Oxford and route sections A to G are in Cherwell District.

#### *Splitting route section I into I-1 and I-2*

8. The revised proposals for EWRP1, omitting certain elements as described in paragraphs 4-7 above, meant that the remaining track replacement work being undertaken at the southern part of route section I and in route section J (from Aristotle Lane Footbridge southwards to just north of Oxford Station) no longer formed part of the works to be implemented under the TWAO. NR is relying permitted development rights to implement these works. The effect of this was that the conditions attached to the TWAO and deemed planning permission would no longer apply to the line south of Aristotle Lane Footbridge and on into Oxford Station.
9. In order to facilitate this change to the scheme, NR was obliged to split route section I into two parts (planning application reference 15/01978/CND):
  - I-1 (north of Aristotle Lane Footbridge where the TWAO and planning conditions still applied); and,
  - I-2 (south of Aristotle Lane Footbridge to the point where it abuts route section J, where the TWAO and planning conditions no longer applied).
10. On 5<sup>th</sup> May 2015 WAPC agreed to splitting route section I into those two sections subject to a condition that a Noise Scheme of Assessment (NSoA) and Vibration Scheme of Assessment (VSoA) and associated proposals for monitoring and mitigation of the operational noise and vibration of the passenger and freight services on the rail line be submitted and approved for route section I-2. This was effectively re-imposing condition 19 of the deemed permission for EWRP1 which had been imposed in order to “ensure that operational noise and vibration are adequately mitigated at residential and other noise sensitive premises” (Appendix 2).
11. The condition imposed on 15/01978/CND by WAPC reads:

*“The development facilitating the passage of EWRP1 trains in Section I/2 shall not be used for the passage of passenger rail traffic until Noise and Vibration Schemes of Assessment (SoAs) for Section I/2 have been submitted which accord with the requirements of condition 19 of deemed planning permission TWA/10/APP/01 and approved in writing by the local planning authority AND all noise and vibration mitigation required under the approved SoAs for section I/2 has been installed. So far as not inconsistent with this condition, the requirements of condition 19 of deemed planning permission TWA/10/APP/01 shall apply to the development facilitating the passage of EWRP1 trains in Section I/2 as if that development was “Development” as defined in deemed planning permission TWA/10/APP/01.*

*Reason: To ensure that operational noise and vibration are adequately mitigated at residential and other noise sensitive premises”.*

## **The Requirements of Condition 19 - noise and vibration**

12. Condition 19 is entitled “Operational noise and vibration monitoring and mitigation” and is a relatively complex condition with a number of components. Its core requirements are that:

- operational noise and vibration monitoring and mitigation are to be carried out in accordance with the Noise and Vibration Mitigation Policy, **Appendix 3**, which was approved by the Secretary of State; and,
- development within each section of the scheme is not to commence until noise and vibration schemes of assessment have been approved by the Council.

13. Schemes of Assessment are to be submitted to show how the standards set out in the Noise and Vibration Mitigation Policy (the Policy) will be achieved. The Schemes of Assessment are to be accompanied by a report prepared by an Independent Expert (who has been approved in advance by the Council) commenting on their robustness. The appointment of the Independent Experts: one for noise (Brian Hemsworth) and one for vibration (Dr. Chris Jones), were agreed by Oxford City Council on 2<sup>nd</sup> May 2013 under delegated powers and planning application reference 13/00907/CND. The detailed Technical Background to the Schemes of Assessment and their evaluation is contained in **Appendix 4**.

## **The Submitted Schemes of Assessment in this case**

### ***The NSoA for Route Section I-2***

14. The submitted NSoA for route section I-2 was accompanied by a report by the IE for noise and therefore meets the ‘content’ tests set out in **paragraph 26 above**. The IE’s report comments on the methodology used, the results obtained and the NSoA outcomes and concludes that the noise predictions are accurate.

15. In route section I-2 the existing noise levels are high due to the operation of trains on the mainline adjacent to the proposed new line.

16. The NSoA predicts that the operational noise from EWRP1 will cause increases of 3dB or more at a number of properties in route section I-2. Under the NVMP, increases of 3dB or more are to be mitigated by ‘at source’ measures which may include rail damping (see paragraph 11 of Appendix 4). NR is not proposing the installation of rail damping because it has not obtained ‘type- approval’ for the use of rail damping on this type of line.

17. The NSoA predicts that the operational noise from EWRP1 will not cause increases of 5dB or more at any properties. The NVMP requires increases of 5dB or more to be mitigated by the installation of noise barriers (paragraph 11 of Appendix 4). NR is not proposing barriers because there are no increases

of 5dB or more in route section I-2

18. NR's case therefore is that no noise mitigation is required in route section I-2 because rail damping is not type-approved and the noise increase values which determine whether mitigation is required (paragraph 11 of Appendix 4) are not exceeded by operational noise from EWRP1 at any noise sensitive receptors.

*Comments made by Network Rail at WAPC on 13<sup>th</sup> September 2016*

19. At the meeting of the West Area Planning Committee on 13<sup>th</sup> September, officers recommended that the application be approved subject to a condition that rail damping to at least the standard of SilentTrack is implemented unless it can be established that it would not be reasonably practicable to do so. This would be consistent with recommendations in respect of the NSoAs for route sections H and I-1. In their presentation to the Committee on 13<sup>th</sup> September, NR made comments on that recommendation which are discussed below.

- NR comment – *“this last minute change is highly unusual and contradicts the recommendations of the Council's Independent Expert”*.
- Officer response:

20. For clarification, the IE's role, as required by condition 19 of the deemed permission for EWRP1, is *“to comment on the robustness of the noise-related elements of the scheme of assessment”*. In so doing, the IE is not acting on behalf of the Council, or of any other party. Although the IE role is a requirement of condition 19, it had been agreed by the applicant that the Noise Scheme of Assessment for I-2 would be submitted and checked in the same way as if condition 19 applied.

21. In fulfilling his role regarding Section I-2, and in common with previous NSoAs for Sections H and I-1, the IE focussed on the calculations and related predictions within the NSoA. He concluded that: *“In my opinion the noise predictions contained in this Noise Scheme of Assessment have been carried out using relevant noise prediction models and are accurate.”* Officers concur with this conclusion.

22. With regard to mitigation, in common with previous NSoAs for Sections H and I-1, the applicant discounted the use of rail dampers for at-source noise mitigation because rail dampers are not 'type approved' for use on the UK railway network on the relatively high speed sections of track considered in this assessment. In line with his reports for the NSoAs for route sections H and I-1, the IE did not disagree with this statement. He therefore went on to say in his report that *“I concur with the conclusions that no mitigation of operational noise is required in this Section to achieve the Noise Impact Threshold Levels defined in the Noise and Vibration Mitigation Policy”*.

23. Officers consider that the lack of type approval as described above does not mean that rail damping is not reasonably practicable. This view was upheld by

the WAPC decision on 13<sup>th</sup> September in respect of NR's rail damping applications for route sections H and I-1. It follows that any decision made by WAPC in respect of Section I-2 should be consistent with those for Sections H and I-1 and therefore officers are recommending imposition of the condition relating to SilentTrack.

- NR comment – *the presentation is an over-simplification of a complicated situation. Baseline levels at night in I-2 are much higher than the NVMP thresholds of 45dB.*
- Officer response:

24. Given the need to present essential points clearly, officers agree that matters have been simplified in the report and presentation but assert that none of this is at odds with the complications of the situation in route section I-2. Moreover, the presence of baseline levels which exceed the NVMP night time Noise Impact Threshold does not remove the requirement for mitigation measures to be considered. NR has confirmed that there are several properties where the scheme impact is between 3 and 5dB: in those circumstances para 2.4 of the NVMP requires that: *“mitigation at source through rail infrastructure solutions will be implemented where reasonably practicable”*.

- NR comment – rail damping would have only a limited effect::

*“The results in Table 5.1 of the NSoA show some properties where the predicted impact is generally 3 dB or less with two locations showing an impact of 4dB. Our estimation is that the overall noise reduction from Silent Track would only reduce noise levels to between 1 and 2 dB which is generally accepted as being less than can be perceived by the human ear. The reasons why, we estimate, SilentTrack would not provide the 3-4dB stated above are as follows:*

*(i) Firstly all trains will be accelerating away from Oxford Station or braking towards it, therefore engine traction and braking noise will be the dominant noise sources. Neither of these noise sources will be mitigated by SilentTrack.*

*(ii) Secondly SilentTrack cannot be used at crossing points which are common in Section I-2.*

*(iii) Finally, there are no works being carried out under the TWA Order here, therefore, OCC shouldn't impose conditions on tracks not covered by the TWA.*

*These factors mean that, the benefits of installing SilentTrack in Section I-2 would be extremely limited”*.

- Officer response:

25. Officers are not in a position either to agree or disagree with these points about the reasonable practicability of rail damping in route section I-2 because the detailed case in that respect is not part of this application.
26. NR's assertion that the work being undertaken in route section I-2 is permitted development and not part of the works approved under the Transport and Works Act does not prevent the imposition of conditions to the decision in this case. This application is for discharge of a condition relating to the splitting of route section I, not for discharge of a condition relating to works.

### **The VSoA for Route Section I-2**

27. The VSoA for route section I-2 comprises the re-submission of the relevant parts of the approved VSoAs for route-sections H and I-1, including the report of the Independent Expert and the approved methodology. A Technical Note has also been submitted as part of the VSOA for route section I-2, dealing with properties within route section I-2 that are less than 15 metres from the tracks: it confirms that those properties would not be exposed to vibration exceeding the VDV levels set out in the NVMP. NR concludes that because there are no exceedances, no vibration mitigation measures are required.

### **The Determining Issues**

28. The determining issues are:

- whether the submitted NSoA and VSoA for route section I-2 are robust; and,
- whether they have demonstrated that the required standards of noise mitigation set out in the NVMP will be achieved subject to the installation of any specified mitigation measures.

29. Local residents have expressed concerns that *"this area needs noise and vibration mitigation given the large and increasing amount of rail traffic"*. While there is much anecdotal evidence of operational rail noise and vibration experienced locally, this derives from the existing location of tracks and pattern of train movements. EWRP1 is only required to mitigate the noise and vibration impacts that this particular project will create. EWRP1 is not obliged to address current noise and vibration issues not related to its operations.

### **Conclusion in respect to the NSoA for route-section I-2**

30. The NSoA for route section I-2 has been shown to be robust. It predicts:

- that the operational noise from EWRP1 will cause increases of 3dB or more at a number of properties in route section I-2: the NVMP requires these impacts to be mitigated through at source measures such as rail damping but no such mitigation is proposed; and,
- that the operational noise from EWRP1 will not cause increases of 5dB

or more at any properties and in accordance with the NVMP no noise mitigation is proposed.

31. Taking into account the representations made by all parties, the adopted policies of the Oxford Local Plan 2001-2016 which seek to preserve residential amenity where properties are close to noise generating development, and the requirements of condition 19 of deemed planning permission TWA/10/APP/01, it is recommended that the application be approved subject to conditions including one requiring the submission of proposals for the installation of rail damping which reads:

*“Within three months of this approval, proposals shall be submitted for the written approval of the local planning authority showing how at-source noise attenuation by rail damping to at least the standard achievable by the use of Tata SilentTrack can be incorporated into the scheme. The development to which this approval relates shall not be brought into operation EITHER without that written approval having been obtained and other than in accordance with such approved details OR without the Council having given written confirmation that it is satisfied that the provision of such rail damping is not reasonably practicable.*

*Reason: in accordance with Policies CP6, CP10, CP19 and CP21 of the adopted Oxford Local Plan 2001-2016, and with the requirements of condition 19 of deemed planning permission TWA/10/APP/01, the local planning authority is not satisfied that rail damping as an at source mitigation measure has been shown to be not reasonably practicable in the absence of any attempt on the part of the applicant to secure approval for the use of such a measure.”*

### **Conclusion in respect to the VSoA for route-section I-2**

32. The VSoA for route section I-2 has been shown to be robust. It has been demonstrated that the required standards set out in the Noise and Vibration Mitigation Policy will be achieved in route section I-2. Accordingly, it is recommended that the application be approved.

### **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance

with the general interest. The interference is therefore justifiable and proportionate.

#### Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:** 15/01978/CND; 16/01634/CND; 16/01635/CND

**Contact Officer:** Fiona Bartholomew

**Extension:** 2774

**Date:** 22<sup>nd</sup> September 2016



## TECHNICAL BACKGROUND TO THE SCHEMES OF ASSESSMENT AND THEIR EVALUATION

### Noise and vibration being considered separately

1. Condition 19 requirements apply both to operational noise and vibration aspects of the scheme. There are similarities and links between these two aspects, since both are generated by the same rolling stock; and a person's perception of railway noise might be affected by structure-borne vibration and vice versa<sup>1</sup>.
2. However, the way in which sound and ground-borne vibration are generated, transmitted and perceived are different, as are the resulting methodologies for their measurement and prediction. These differences are reflected in the way that noise and vibration has been treated in the environmental impact assessment, application, public inquiry and resulting deemed permission. In effect condition 19 requires noise and vibration to be treated separately, though in the same context and using similar processes.

### The Noise and Vibration Mitigation Policy – in relation to noise

3. The purpose of the Noise and Vibration Mitigation Policy (set out in part (v) of the summary on page 1) is to ensure that:

*“(i) Noise will be reduced at source where it is reasonably practicable to do so.*

*“(ii) Where this is not reasonably practicable, noise barriers or noise insulation to properties will be provided, where necessary, in accordance with relevant standards.*

*“(iii) Where predicted noise levels exceed relevant levels set out in the Noise Insulation (Railways and Other Guided Systems) Regulations, noise insulation will be offered to the occupiers of eligible buildings to the standards required by those Regulations and provided at their request.*

*“(iv) At other locations, where statutory noise levels are not exceeded but where significant noise impacts are predicted, noise will be mitigated wherever reasonably practicable. Significant noise impacts include a significant increase in noise in an already noisy area, or the significant exceedence of stringent thresholds in an area where the ambient noise is currently low. Chiltern Railways*

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<sup>1</sup> British Standard BS6472-1:2008 “guide to evaluation of human exposure to vibration in buildings” includes advice on this interaction.

*has chosen to offer this high standard of mitigation. It is not a statutory requirement”.*

4. **Condition 19(2)** requires the submission of Noise Schemes of Assessment (NSoAs) and Vibration Schemes of Assessment (VSoAs) and associated proposals for monitoring and mitigation of the operational noise and vibration of the passenger and freight services on the rail line. The NVMP sets out the ‘reasonable planning scenario’: the assumptions that are to be used in the Schemes of Assessment for the numbers and timing of train movements which are as follows (set out in full for ease of reference):

*“1.8 The assessment of noise and vibration has been based on two operational patterns of new train services:*

- After the implementation of the works in Phases 1 and 2A, operational services will consist of up to two Chiltern Railways passenger trains per hour each way. The passenger trains will replace the existing passenger service operated by First Great Western between Bicester Town and Oxford stations.*
- After the implementation of the East West Rail (EWR) link including works in Phase 2B, there are likely to be an additional two passenger trains per hour each way.*

*Neither Chiltern Railways or EWR will be running passenger trains throughout the night, and services in late evening and early morning will be at a reduced frequency. A small number of passenger trains may arrive in Oxford after midnight or depart from Oxford before 0600.*

*1.9. In the operation of Phase 1 and 2A, there are likely to be no more freight trains than operate at present, as there will be no new freight destinations that can be served. When the East-West Rail (EWR) link is in operation, there may be more freight trains. For this reason, additional freight services were included in the noise assessment in the Environmental Statement, so that this reflects a reasonable planning scenario. The actual number of freight services will reflect national freight demand, but will be limited to the maximum number of available freight ‘paths’ (1 per hour in each direction). Experience shows that about half of the available freight train paths are likely to be used on a given day, which would suggest a reasonable planning scenario of 8 freight train movements between 11pm and 7am. Freight trains will not use the ‘new’ railway line between Oxford North Junction (where the Bicester to Oxford Line meets the Oxford-Banbury main line) and Oxford, but instead will use the existing main line, as at present.*

*1.10 The noise and vibration mitigation will be designed based on the assumptions in paragraph 1.8 and 1.9 regarding the numbers and timing of train movements.” [Underlining added]*

5. In the NVMP, noise sensitive receptors are defined as primarily residential properties. The NVMP does not require mitigation of operational rail noise in gardens or other open spaces.

6. The NVMP uses both predicted total noise, and predicted noise change to determine whether noise mitigation is needed and the type of mitigation to be installed. While not strictly a sequential process, it is simplified as such for easy understanding in the paragraphs below.
7. Firstly, the NVMP lays down noise thresholds to determine whether noise mitigation is needed at noise sensitive receptors:

Noise Threshold Levels	Day (0700-2300 hrs)  55dB LAeq	Night (2300-0700 hrs )  45dB LAeq	Adopted in NVMP as levels below which noise impacts are not considered to be significant
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8. Secondly, noise insulation commitments are made where noise levels at noise sensitive receptors are still high even after the installation of at source mitigation measures and noise barriers:

Noise Insulation Trigger Levels	Day (0600-0000 hrs)  > LAeq (66dB)  <i>where the predicted noise level is 1dB above the ambient level</i>	Night (0000-0600 hrs)  > LAeq (61dB)  <i>where the predicted noise level is 1dB above the ambient level</i>	These are the statutory trigger levels which would apply under the Noise Insulation Regulations.
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9. Thirdly where noise levels at noise sensitive receptors do not exceed the Noise Insulation Trigger Levels but are more than 10dB above pre-existing levels, non-statutory noise insulation is offered.
10. Finally, the NVMP makes a further commitment to noise insulation where instantaneous peak noise from a train pass-by at night exceeds 82 dB LA max.
11. The NVMP then sets out how predicted total noise, and predicted noise change are used to determine the type of mitigation to be implemented:
  - *“exceedances of 3 dB or greater and increases of 3 dB or greater—mitigation at source through rail infrastructure solutions will be implemented where reasonably practicable;*
  - *exceedances of greater than 5 and up to 7 dB and increases of greater than 5 dB and up to 7 dB -- at source and/or in the form of noise*

*barriers if reasonably practicable and have no other negative effects;*

- *exceedances of greater than 7dB and increases of greater than 7dB – at source through rail infrastructure solutions and where these cannot be reasonably practicably achieved, noise barriers will be provided, where reasonably practicable”.*

### **What is a Noise Scheme of Assessment and how is it judged?**

12. The purpose of a Noise Scheme of Assessment is to predict the impact of noise on properties and, if pre-agreed thresholds are exceeded, set out mitigation measures and monitoring arrangements. A Scheme of Assessment would therefore be expected to comprise measurements, methodology, modelled predictions and resulting proposals (which might include mitigation and monitoring).
13. Considering this and the requirements of condition 19, the key tests for the submitted Noise Scheme of Assessment therefore are as follows:
- Is the Noise Scheme of Assessment sufficient – being a detailed scheme of assessment of vibration effects, with details of proposed monitoring and mitigation measures?
  - Does the Noise Scheme of Assessment contain measurements, methodology, modelled predictions and resulting proposals (which include mitigation and monitoring if applicable)?
  - Does the Noise Scheme of Assessment show how the standards of vibration mitigation set out in the Noise and Vibration Mitigation Policy will be achieved?
  - Does the Noise Scheme of Assessment contain supporting calculations or empirical data, or a combination of the two?
14. In each of these tests there is an implication that as well as the Noise Scheme of Assessment containing the relevant elements, these have been treated correctly. This leads to the overall test:
- Are the noise-related elements of the Noise Scheme of Assessment considered to be sufficiently robust?
15. If any of these tests were not met, the Noise Scheme of Assessment would need to be rejected. It is the role of the Independent Expert to comment on the robustness of the Scheme of Assessment.
16. However, it is the Local Planning Authority and not the Independent Expert which must decide upon the adequacy of the Noise Scheme of Assessment. Provided that the submitted Noise Scheme of Assessment is considered to be robust then its predictions may be relied upon, as may the mitigation and monitoring measures contained within it.

### **The Noise and Vibration Mitigation Policy – in relation to vibration**

17. The Noise and Vibration Mitigation Policy was approved by the Secretary of State in granting deemed planning permission: it sets out the parameters for

the analysis contained in the Vibration Schemes of Assessment. Its purpose is to ensure that:

*“Vibration from trains will not cause damage to structures, and even without mitigation, will be likely only to give rise to ‘adverse comments from occupiers being possible’ at a few properties that are located very close to the railway. At these locations, appropriate mitigation measures will be provided”.*

18. The Noise and Vibration Mitigation Policy uses principles contained in British Standard BS647-1:2008 “guide to evaluation of human exposure to vibration in buildings”. This sets numerical ranges, expressed as Vibration Dose Values to predict the “likelihood of adverse comment” as a result of “feelable” vibration. The Noise and Vibration Mitigation Policy sets down thresholds for Vibration Dose Values which this scheme must not exceed: these thresholds are located between the lower and middle of three Vibration Dose Values ranges, below which the British Standard predicts a “low probability of adverse comment”.

19. Thus the threshold Vibration Dose Values which must not be exceeded in this scheme are:

- Day (0700 – 2300 hours): 0.4 m/s<sup>1.75</sup>
- Night (2300 – 0700 hours): 0.2 m/s<sup>1.75</sup>

20. The Noise and Vibration Mitigation Policy requires that trackforms be designed and installed adjacent to occupied vibration sensitive buildings using best practicable means to keep within the thresholds. Where mitigation measures that the Noise and Vibration Mitigation Policy would otherwise require are “not reasonably practicable” the condition allows for an equally effective substitute (previously approved in writing by the Council) unless the Council has agreed in writing that the mitigation measure is not reasonably practicable and that there is no suitable substitute. In the event that the thresholds could not be met, the condition would allow for alternative mitigation or potentially insufficient mitigation to meet those thresholds.

21. The Noise and Vibration Mitigation Policy sets out the assumptions that are to be used in the Schemes of Assessment for the numbers and timing of train movements which are as follows (set out in full for ease of reference):

*“1.8 The assessment of noise and vibration has been based on two operational patterns of new train services:*

- *After the implementation of the works in Phases 1 and 2A, operational services will consist of up to two Chiltern Railways passenger trains per hour each way. The passenger trains will replace the existing passenger service operated by First Great Western between Bicester Town and Oxford stations.*
- *After the implementation of the East West Rail (EWR) link including works in Phase 2B, there are likely to be an additional two passenger trains per hour each way.*

*Neither Chiltern Railways or EWR will be running passenger trains throughout the night, and services in late evening and early morning will be at a reduced frequency. A small number of passenger trains may arrive in Oxford after midnight or depart from Oxford before 0600.*

*1.9 In the operation of Phase 1 and 2A, there are likely to be no more freight trains than operate at present, as there will be no new freight destinations that can be served. When the East-West Rail (EWR) link is in operation, there may be more freight trains. For this reason, additional freight services were included in the noise assessment in the Environmental Statement, so that this reflects a reasonable planning scenario. The actual number of freight services will reflect national freight demand, but will be limited to the maximum number of available freight 'paths' (1 per hour in each direction). Experience shows that about half of the available freight train paths are likely to be used on a given day, which would suggest a reasonable planning scenario of 8 freight train movements between 11pm and 7am. Freight trains will not use the 'new' railway line between Oxford North Junction (where the Bicester to Oxford Line meets the Oxford-Banbury main line) and Oxford, but instead will use the existing main line, as at present.*

*1.10 The noise and vibration mitigation will be designed based on the assumptions in paragraph 1.8 and 1.9 regarding the numbers and timing of train movements.*" [Underlining added]

### **What is a Vibration Scheme of Assessment and how is it judged?**

22. The purpose of a Vibration Scheme of Assessment is to predict the impact of vibration on properties and, if pre-agreed thresholds are exceeded, set out mitigation measures and monitoring arrangements. A Scheme of Assessment would therefore be expected to comprise measurements, methodology, modelled predictions and resulting proposals (which might include mitigation and monitoring).
23. Considering this and the requirements of condition 19, the key tests for the submitted Vibration Scheme of Assessment therefore are as follows:
- Is the Vibration Scheme of Assessment sufficient – being a detailed scheme of assessment of vibration effects, with details of proposed monitoring and mitigation measures?
  - Does the Vibration Scheme of Assessment contain measurements, methodology, modelled predictions and resulting proposals (which include mitigation and monitoring if applicable)?
  - Does the Vibration Scheme of Assessment show how the standards of vibration mitigation set out in the Noise and Vibration Mitigation Policy will be achieved?
  - Does the Vibration Scheme of Assessment contain supporting calculations or empirical data, or a combination of the two?

24. In each of these tests there is an implication that as well as the Vibration Scheme of Assessment containing the relevant elements, these have been treated correctly. This leads to the overall test:
- Are the vibration-related elements of the Vibration Scheme of Assessment considered to be sufficiently robust?
25. If any of these tests were not met, the Vibration Scheme of Assessment would need to be rejected. It is the role of the Independent Expert to comment on the robustness of the Scheme of Assessment.
26. However, it is the Local Planning Authority and not the Independent Expert which must decide upon the acceptability of the Vibration Scheme of Assessment. Provided that the submitted Vibration Scheme of Assessment is considered to be robust then its predictions may be relied upon, as may the mitigation and monitoring measures contained within it.

### **Monitoring**

27. The Noise and Vibration Mitigation Policy does not require the monitoring of operational noise and vibration as a continuous exercise: it requires only the monitoring of any mitigation measures that are installed as a result of the findings of the Noise and Vibration Scheme of Assessment (see paragraph 2.11 of the NVMP, **Appendix 3**).

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**APPENDIX 1**

**ROUTE-SECTION I-2**



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**West Area Planning Committee**

11<sup>th</sup> October 2016

**Application Number:** 16/01495/RES

**Decision Due by:** 2nd September 2016

**Proposal:** The outline planning application (13/02557/OUT) was an Environmental Impact Assessment application and an Environmental Statement was submitted. Approval of all reserved matters was granted (14/02402/RES) under condition 5 of the outline planning permission. This application seeks approval of amended reserved matters for the appearance of a proposed canopy over Bridge 13 (connecting Buildings 3 and 4) only. All other reserved matters previously approved remain unaffected.

**Site Address:** Westgate Centre And Adjacent Land Encompassing The Existing Westgate Centre And Land Bounded By Thames St, Castle Mill Stream, Abbey Place, Norfolk St, Castle St, Bonn Square, St Ebbes St, Turn Again Lane And Old Greyfriars St (**site plan: appendix 1**)

**Ward:** Carfax Ward

**Agent:** Mr Jon Bowen

**Applicant:** Westgate Oxford Alliance

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## **Recommendation:**

The West Area Planning Committee are recommended to grant planning permission for the following reasons

## **Reasons for Approval**

- 1 The proposed canopy would constitute a minor addition to the approved development, and would be of a size, scale, and appearance that would create an appropriate visual relationship with the bridge and the built form of Blocks 3 and 4 and also views from Turn Again Lane. The canopy would fulfil an important functional requirement for users of the bridge, and the proposed lighting would not create any adverse impact in terms of light spillage. The proposal would therefore accord with the aims and objectives of the relevant policies of the Oxford Core Strategy, Oxford Local Plan and West End Area Action Plan. No third party representations have been received.

- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

### **Conditions**

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials as specified

### **Principal Planning Policies:**

#### Oxford Local Plan 2001-2016

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP9** - Creating Successful New Places

**CP10** - Siting Development to Meet Functional Needs

**CP19** - Nuisance

**CP20** – Lighting

**CP21** - Noise

**HE7** - Conservation Areas

#### Core Strategy

**CS18\_** - Urban design, town character, historic environment

#### West End Area Action Plan

**WE10** - Historic Environment

**WE12** - Design & construction

**WE1** - Public realm

#### Other Planning Documents

National Planning Policy Framework

### **Public Consultation**

#### Statutory Consultees

- Historic England: No comment. The application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.
- Natural England: No comment
- Cherwell District Council: No objections
- Oxfordshire County Council: No objections

## Third Parties

No third party representations have been made with respect to the application

### **Officers Assessment:**

#### **Background to Proposals**

1. The site relates to the Westgate Oxford development which measures approximately 5.9ha, and extends from Bonn Square in the north to Thames Street in the south and from Castle Mill Stream in the west to Old Greyfriars Street and Pennyfarthing Place in the east (**appendix 1**).
2. In March 2014 outline planning permission with all matters reserved was granted by the West Area Planning Committee for a retail-led mixed use development of the former Westgate Shopping Centre, Multi-Storey and Surface Level Car Park and Abbey Place Car Park under reference 13/02557/OUT. The reserved matters for the layout, scale, appearance, and landscaping of the development was subsequently approved under reference number 14/02402/RES by the West Area Planning Committee meeting on the 25<sup>th</sup> November 2014. The outline permission and reserved matters are currently being implemented on site.
3. The current application is an additional reserved matters application seeking permission for the appearance of a tensile fabric canopy measuring approximately 7.7m x 10.3m to provide overhead protection to people traveling across Bridge 13 to access the roof terraces of Buildings 3 and 4.
4. The reserved matters (layout, scale, appearance, and landscaping) previously approved under application 14/02402/RES will be unaffected by this application which would relate solely to the appearance of the proposed canopy.
5. The principle determining issues in this case would therefore relate solely to the impacts of the proposed canopy as follows
  - Visual Impact of the appearance
  - Lighting
  - Conformity to the Environmental Statement and its addendum

#### **Visual Impact**

6. Policy CS18 of the Oxford Core Strategy 2026 requires development to demonstrate high-quality urban design that responds appropriately to the site and surroundings; creates a strong sense of place; attractive public realm; and high quality architecture.
7. The Oxford Local Plan 2001-2016 requires development to enhance the quality of the environment, with Policy CP1 central to this purpose. Policy CP8 states that the siting, massing, and design of new development should create an appropriate visual relationship with the built form of the surrounding area. While Policy HE7 requires proposals to preserve and enhance the special character and appearance of the conservation area.

8. The proposed canopy has been designed to fall within the permitted zone for Bridges Connecting Blocks approved as part of the parameter plans for the outline permission. The canopy would have a lightweight appearance being formed from a tensile fabric with neutral colour tone. The canopy would not materially alter the visual appearance of the bridge or adjoining buildings approved as part of the reserved matters application. The canopy would be visible from Turn Again Lane, but the minor and lightweight appearance when viewed against the approved buildings of Block 3 and 4 would mean that it would not have a significant impact upon the view from this location.
9. As such officers consider that the proposal would accord with the aims of the above-mentioned policies.

### **Lighting**

10. The canopy will be feature lit by an uplighter which is fixed to the façade of building 4 and LED lights within the handrail of Bridge 13. The lighting would provide ambient lighting for the space and would not have any adverse impact from light spillage.
11. The proposal would therefore accord with the aims of Oxford Local Plan policy CP20 which seeks to prevent unacceptable levels of light pollution and spillage.

### **Environmental Impact Assessment**

12. The outline planning application for the Westgate development was accompanied by an Environmental Statement (September 2013) and Environmental Statement Addendum (January 2014). The reserved matters application was also accompanied by an Environmental Statement (August 2014) and Environmental Statement Addendum (September 2014).
13. This reserved matters application would constitute a 'subsequent application' under Regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As such the likely significant effects of the proposed development need to be considered.
14. The application has assessed the impact of the proposed canopy against the baseline data in the approved Environmental Statement and its Addendum and identified that the development does not give rise to any new or different significant effects to those identified and assessed previously.

### **Conclusion**

15. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and West End Area Action Plan and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

### **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

**Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** Andrew Murdoch

**Extension:** 2228

**Date:** 22nd September 2016

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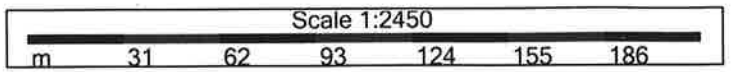


# Appendix 1

16/01495/RES Westgate Oxford



1:2450



<b>Organisation</b>	Oxford City Council
<b>Department</b>	City Development
<b>Comments</b>	Not Set
<b>Date</b>	30 September 2016
<b>SLA Number</b>	100019348

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**West Area Planning Committee**

11<sup>th</sup> October 2016

**Application Number:** 1. 16/01267/FUL

2. 16/01480/FUL

**Decision Due by:** 20th July 2016

**Proposal:** 1. Change of use from council depot to artisan distillery (revised proposal omitting café and visitor centre).

2. Erection of single storey barn to provide storage space. (Amended plans).

**Site Address:** Oxford City Council Depot. **Appendix 1.**

**Ward:** St Clement's Ward

**Agent:** Mr Daniel Wadsworth

**Applicant:** Mr Tom Nicolson

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## Recommendation

### (1) 16/01267/FUL

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed change of use is considered to be an acceptable departure from policy SP52 of the Sites and Housing Plan; does not involve and building works; would not cause unacceptable levels of harm to the amenities of the neighbouring properties; and would preserve the character and appearance of the Conservation Area. Impact on the highway network and bats has also been satisfactorily addressed. The proposal therefore accords with policies CP1, CP6, CP8, CP10, and HE7 of the Oxford Local Plan and CS12 and CS18 of the Core Strategy.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions:

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Bats
- 4 Swept Path Analysis
- 5 Delivery and Service Management Plan
- 6 Hours of use

**(2) 16/01480/FUL:**

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed development is considered justified in design terms and the impact on the character and appearance of the Conservation Area and the setting of adjoining listed buildings for a temporary period and would not cause unacceptable levels of harm to the amenities of the neighbouring properties. Impact on trees has also been addressed. The proposal therefore accords with policies CP1, CP6, CP8, CP10, CP25, HE3, HE7, NE15 and NE16 of the Oxford Local Plan and CS18 of the Core Strategy.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions:

- 1 Temporary Permission
- 2 Development begun within time limit
- 3 Develop in accordance with approved plans
- 4 Samples in Conservation Area
- 5 Tree Protection Plan

**Main Local Plan Policies:**

**Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP8** - Design Development to Relate to its Context

**CP10** - Siting Development to Meet Functional Needs

**CP25** - Temporary Buildings

**HE3** - Listed Buildings and Their Setting

**NE15** - Loss of Trees and Hedges

**NE16** - Protected Trees  
**NE20** - Wildlife Corridors  
**NE23** - Habitat Creation in New Development  
**SR5** - Protection of Public Open Space  
**TR14** - Servicing Arrangements

**Core Strategy**

**CS12\_** - Biodiversity  
**CS18\_** - Urban design, town character, historic environment

**Sites and Housing Plan**

**SP52\_** - South Parks Depot, Cheney Lane  
**MP1** - Model Policy

**Other Material Considerations:**

- National Planning Policy Framework
- This application is in or affecting the Headington Hill Conservation Area. The development is affecting a Grade II Listed Building.
- Planning Practice Guidance

**Relevant Site History:**

None.

**Representations Received:**

1. 16/01267/FUL

4 no. objections whose comments relate to encouraging young people to drink due to the proximity to Cheney School, impact on the setting of the listed building, allocation of housing and covenants restricting production and consumption of alcohol.

3 no. supporting comments which relate to bringing the buildings back into use, preserving the setting of South Park and the Grade II Threshing barn, an innovative development supporting local charity and provision of toilet facilities.

1no. general comment which supports bringing the site back into use, but concerned the development would introduce drinking in the park and lack of information regarding opening time of toilets.

2. 16/01480/FUL

2no. objection comments received which state the proposed use is not compatible being so close to the Warneford and Cheney School, the level of development, and the nature of the activity intended are both inappropriate, there is little public benefit.

**Statutory and Non-Statutory Consultees:**

1. 16/01267/FUL

Friends of South Park – welcome the site being brought back into use but have

concerns over the scale of the visitor centre and café, loss of a hedge and the use of artificial lighting on the site.

Highways – no objection subject to conditions.

Natural England – the proposal is unlikely to affect any statutorily protected sites or landscapes. Refer to standing advice.

Oxford Civic Society - objection due to legal covenants affecting the site preventing the production or sale of alcohol

## 2. 16/0480/FUL

Oxford Civic Society – the proposed barn is associated with the proposed use as a distillery and should not be supported due to legal covenants.

### **Officers Assessment:**

#### Site and proposal:

1. The South Park Depot is a site owned by Oxford City Council and sits at the top of South Park between Warneford Lane and Cheney Lane to the east of Oxford City Centre. The site falls within the Headington Hill Conservation Area, contains an 18<sup>th</sup> Century Grade II Listed Threshing Barn with curtilage listed buildings and is within a wildlife corridor. The site is now currently vacant but was most recently used by the Parks Department of Oxford City Council as a depot and was originally a farm.
2. This report covers two applications. The first relates to the change of use of the site to a distillery (16/01267/FUL) and the second is for the erection of a storage barn within the site (16/0480/FUL).
3. All building works have been removed from the change of use proposal and therefore the applications now relate solely to the change of use of the site and the erection of a storage barn. A future application will need to come forward for a café and visitor centre and public access toilets. The provision of a café facility is a condition to gaining a long term lease on the site. It is understood that The Oxford Artisan Distillery (TOAD) is being offered a temporary lease of a year in order to enable them to start production before the facilities building is brought forward. This allows time for the applicant to have further discussions and design development for future buildings on plot. This proposal would also need to contain a landscaping plan to enhance the site, ecological enhancements, and drainage scheme.
4. It is the intention of the applicant to start distilling on site within the barn proposed as part of the second application until Listed Building Consent has been obtained for the main threshing barn. Once this has been secured the distilling operations will move to the main threshing barn and the new barn will be used for the storage of barrels.

5. Officers consider the principle determining issues in these cases to be as follows:

Departure from the Development Plan:

6. The South Park Depot Site is owned by Oxford City Council although Oxford Preservation Trust (OPT) hold restrictive covenants on the site preventing residential development and the production of alcohol. The South Park depot site is allocated in the Sites & Housing Plan for residential use (Policy SP52). The policy explicitly states 'planning permission will not be granted for any other uses'. This policy is the Development Plan's dominant policy in relation to the site and therefore the change the use of the depot to a distillery would represent a departure from the development plan.
7. At the time of the Examination of the Sites and Housing Plan, the Oxford Preservation Trust (OPT) objected to the allocation arguing that it was not deliverable. This was on the basis that it had the benefit of a restrictive covenant that could prevent residential development on the site. The Council contested this drawing attention to parts of the 1972 Local Government Act and the 1990 Town and Country Planning Act which provided a statutory mechanism for the development of land notwithstanding the presence of covenants that could otherwise prevent development. [N.B. The relevant part of the 1990 Act (s237) was repealed on 13 July 2016. The provision was in substance replaced by s203 of the Housing and Planning Act 2016. For current purposes there is no material difference.]
8. Notwithstanding the objection to the allocation from OPT, the Inspector examining the Sites and Housing Plan allocated the site for residential development.
9. The covenant has been discussed again more recently with the Oxford Preservation Trust during the preparation of the planning application, and their position remains that they do not wish to see residential development on the site. Their letter dated 1<sup>st</sup> June, 2016 was submitted during the course of the application confirming that they would not vary the covenant to allow housing on the site. Oxford Preservation Trust has clearly set out that they would oppose the removal of the restrictive covenant. The landowner (Oxford City Council) does not consider it to be available as a housing site at the present time.
10. Notwithstanding this the proposed change of use to a distillery would be contrary to the development plan. However that does not mean that the application must be refused. The requirement is to determine the application in accordance with the Development Plan unless material considerations indicate otherwise.
11. With this diminished prospect that the site will be available or deliverable for residential development in the foreseeable future, then there is a risk of a site containing a Grade II Listed Threshing Barn and curtilage listed buildings sitting unused and falling into disrepair. The proposal for a change of use to a

distillery is at present the only use that the landowner considers to be deliverable and achievable.

12. The proposal to use the listed threshing barn as a distillery and the existing curtilage buildings as ancillary to the distillery, are considered to be uses compatible with the buildings' architectural and historic significance. The proposed distillery use would maintain the barn as a working building, and relate to its former, original, agricultural use as a threshing barn. It is considered that the barn could be used for the operation of a distillery without requiring significant alterations in the form of new external openings, internal partitioning and changes to wall and floor finishes, for example (all of which would be required if the barn was to be used to provide housing, in accordance with the current local plan allocation). Therefore, to maintain the barn as a working building would result in substantially less alteration and harm to the barn and the site, than using the site for housing, with the associated cumulative impact of domestic paraphernalia, would have.
13. The proposed use would also provide the opportunity to remove some of the later inappropriate works carried out to the buildings as well as resulting in necessary repair and maintenance works being carried out, thus improving and enhancing the character and appearance of the heritage assets. The new use would also provide the opportunity to enhance the setting of the buildings and the contribution the site makes to the conservation area, through improving the existing surface and boundary treatments and implementing a successful landscaping scheme.
14. Therefore whilst the requirements of Sites and Housing Plan Policy SP52 are acknowledged, officers consider that weighing the requirements of this policy against the benefits that would arise to the architectural and historic significance of the site and listed buildings within it, along with the concerns over the deliverability of the site would in this instance warrant a departure from the requirements of Sites and Housing Plan Policy SP52.

Amenity:

15. The South Parks Depot site contains a residential dwelling which falls outside the red line boundary of the application site. There is currently a poor level of screening between the application site and the dwelling. Since the dwelling currently faces onto a working depot, it is considered that the level of disturbance and lack of privacy that has been experienced in the past will not considerably change. Before any public access is brought forward on the site in the form of the visitor centre and café, this situation would need to be readdressed.
16. It is proposed that the site will be used Monday – Friday between the hours of 8am to 6pm for distilling. These hours will be restricted by condition to protect the amenity of neighbouring occupier.
17. The applicants anticipate that the buildings will be vented naturally using the existing openings and mechanical ventilation has not been sought as part of



these applications. In the event that new ventilation and extraction equipment is required this would need to be subject to a further planning application

#### Highways:

18. The road network around the site already suffers from traffic problems during peak network hours. Furthermore, the site's proximity to Cheney School means that there is a large number of vehicle, pedestrian and cycle movements around the site during peak school hours. In order to mitigate against the increase in vehicle movements associated with the development, the Local Highways Authority has recommended that a Traffic Management Plan for the operation of the distillery be agreed by condition. It would be important to ensure that this plan outlines that no deliveries are to be made to the site during peak hours (including school pick up and drop off times).
19. The existing vehicular access from Cheney Lane will be utilised for the proposed development and no alterations to this access point are proposed. This access point is considered suitable in terms of safety and visibility. It is noted that, according to the indicative layout plans submitted that the refuse storage area is to be located towards the south of the site, away from the access. If this is to be the case, in order to comply with the maximum drag distances set out in the Manual for Streets refuse collection vehicles would be required to enter the site. Accordingly, a swept path analysis of a refuse collection vehicle demonstrating that such a vehicle can safely and easily enter, turn and exit the site in a forward gear would be required. Similarly a swept path analysis demonstrating that a fire tender can make these same manoeuvres is required in any case.

#### Biodiversity:

20. A survey of the site and buildings has identified some use of the Threshing Barn by bats. Emergence surveys have been carried out and a bat mitigation strategy has been prepared. The mitigation strategy provides proposals to ensure no overall negative impact on bats from the development. A condition is therefore recommended that the change of use is carried out in accordance with the *Assessment and recommendations (bats)* section 5.3 (New Roosting Provisions, Working Method Statement and Ongoing Habitat Management details) of the *Ecological Assessment* by GS Ecology (August 2016). The condition will be considered discharged following submission of details from a suitably qualified ecologist to indicate that the work has been carried out in accordance with the above; including evidence of the installation of mitigation/enhancement features as proposed in this report.

#### Heritage Implications of the New Barn:

21. The survival of this historic farm group with relatively little alteration, in an urban location so close to the city centre of Oxford is particularly rare and enhances its local heritage significance and importance. This is a result of its siting in South Park and use as a storage depot. South Park is one of the

viewing places for the Oxford View Cones, which provides footpaths to a series of viewing places along the west facing slopes of the hill.

22. The principle of erecting a new storage barn within the courtyard area of the former agricultural site to serve the operation of the distillery is considered acceptable. The proposed materials (shiplap wooden boarding and profiled roof sheeting) are considered suitable, reflecting the agricultural character of the site. There are concerns, however, regarding the proposed siting, massing and form of the building and the harmful impact that it would have on the setting of the listed building and the character and appearance of the former farm courtyard. By reason of its size and siting, the barn would cover a substantial amount of the courtyard area, detracting from its character and the setting of the listed buildings as well potentially preventing a successful visitor experience for the new distillery use.
23. To have an acceptable impact on the setting of the buildings and character of the courtyard, an additional storage barn should be positioned further towards the eastern boundary of the site, and be of a more linear plan form (narrower width and increased length) to reflect the traditional form of, and sit comfortably within, the existing agricultural building group.
24. The need for the storage barn; to enable the site to become operational in the short term whilst a masterplan and the necessary revenue is compiled is acknowledged and considered sufficient justification for the temporary siting of the proposed barn on the site subject to conditions requiring the approval of materials and further external details.

#### Arboriculture:

25. This proposed barn requires the removal of 3 low quality and value trees; a horse chestnut, an ash and a field maple, all young trees unsuited to their location in close proximity to a stone wall. Their removal will not be significantly detrimental to public amenity; refer to OLP 2001-16 policies CP1, CP11 and NE15. The proposal is therefore considered acceptable subject to a tree protection condition which requires the Tree Protection Plan that is part of the submitted Arboricultural Impact Assessment is implemented.

#### Other:

26. The restrictive covenants on the site preventing the production and consumption of alcohol are not material considerations in determining the planning application but would need to be resolved separately with OPT.
27. The proposal falls within the protected open space of South Park, however the site has always been an enclosed area and the proposal does not result in the loss of an open space available to the public.

#### **Conclusion:**

28. The proposal is considered to be acceptable in terms of the relevant

policies of the Oxford Core Strategy 2026 and the Oxford Local Plan 2001-2016 and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

#### Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

#### Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant approval, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

#### **Background Papers:**

16/01267/FUL

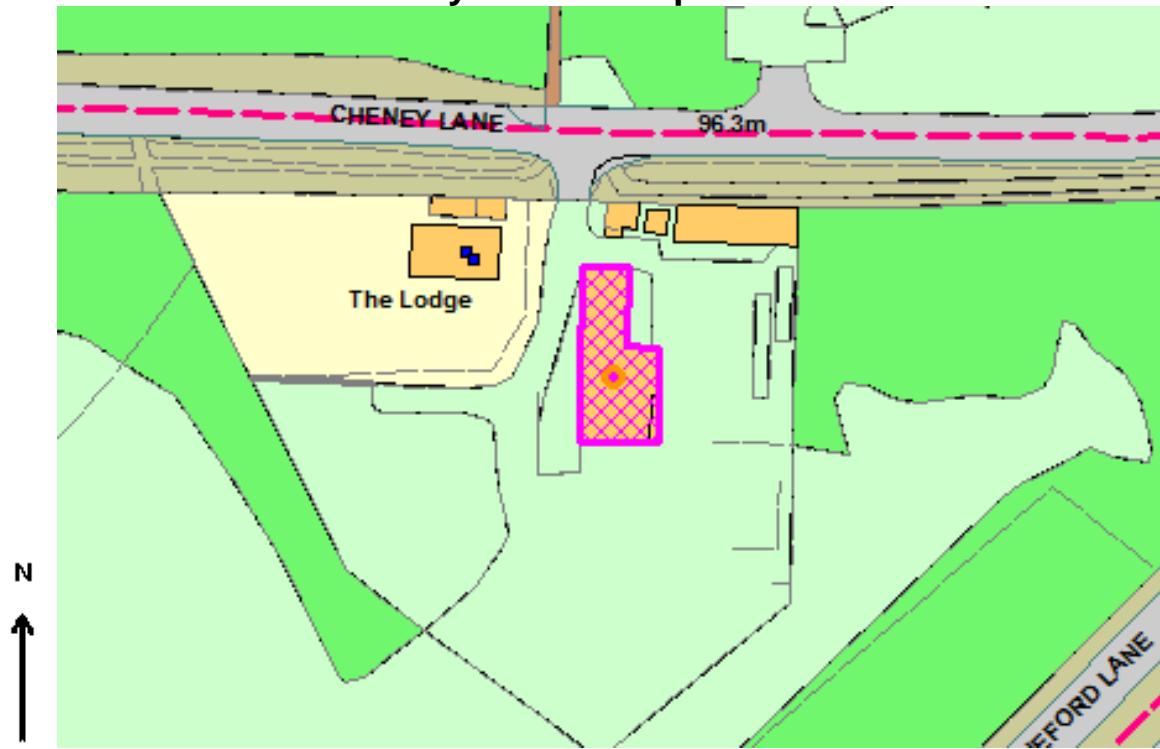
**Contact Officer:** Sarah Orchard

**Date:** 28th September 2016

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# Appendix 1

## 16/01267/FUL - Oxford City Council Depot



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Ordnance Survey 100019348

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West Area Planning Committee

11th October 2016

**Application Number:** 16/02097/FUL

**Decision Due by:** 10th October 2016

**Proposal:** Erection of a single storey rear extension. Formation of basement. Alterations to landscaping with provision of additional vehicle access from Chadlington Road.

**Site Address:** 7 Chadlington Road Oxford Oxfordshire OX2 6SY

**Ward:** St Margarets Ward

**Agent:** Mr James Corris

**Applicant:** Mrs H Wallace

**Application Called in –** by Cllr Wade, supported by Cllrs Wilkinson, Goff and Goddard for the following reasons – loss of greenery, increase in ground surface water run off and overbearing impact on the neighbour to the north.

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## Recommendation:

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed development is acceptable in design terms, would preserve the character and appearance the North Oxford Victorian Suburb Conservation Area and would not have a detrimental impact on the amenities of the neighbouring properties, trees, flooding, biodiversity or highway safety. The proposal therefore accords with policies CP1, CP6, CP8, CP10, CP11, HE7, NE15 and NE16 of the Oxford Local Plan, CS11, CS12 and CS18 of the Core Strategy and HP9 and HP14 of the Sites and Housing Plan.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

## Conditions

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Samples in Conservation Area North Oxford Victorian Suburb
- 4 Tree Protection Plan (TPP) 2
- 5 Arboricultural Method Statement (AMS) 2
- 6 Ground resurfacing - SUDS compliant
- 7 Amenity no balcony
- 8 Visibility Splays
- 9 On street parking

## Main Local Plan Policies:

### Oxford Local Plan 2001-2016

- CP1** - Development Proposals
- CP6** - Efficient Use of Land & Density
- CP8** - Design Development to Relate to its Context
- CP10** - Siting Development to Meet Functional Needs
- CP11** - Landscape Design
- HE2** - Archaeology
- HE7** - Conservation Areas
- NE15** - Loss of Trees and Hedgerows
- NE16** - Protected Trees

### Core Strategy

- CS11\_** - Flooding
- CS12\_** - Biodiversity
- CS18\_** - Urban design, town character, historic environment

### Sites and Housing Plan

- HP9\_** - Design, Character and Context
- HP14\_** - Privacy and Daylight
- MP1** - Model Policy

### Other Material Considerations:

- National Planning Policy Framework
- This application is in or affecting the North Oxford Victorian Suburb Conservation Area.
- Planning Practice Guidance

### Relevant Site History:

15/02763/FUL - Erection of single storey rear extension. Formation of basement. Alteration to boundary wall. Provision of bin and cycle stores, car parking and additional landscaping. (Amended plans) (Additional Information): Approved



## **Representations Received:**

4 third party objections have been received whose comments relate to loss of trees and greenery in the rear garden, scale/depth of the extension, style of the extension, impact of the northern windows, impact of the basement extension and impact on flooding.

## **Statutory and Non-Statutory Consultees:**

Linton Road Neighbourhood Association – no comments received.  
Moreton Road Neighbourhood Association – no comments received.  
Cunliffe Close Residents' Association – no comments received.  
North Oxford Association – no comments received.

## **Issues:**

Design  
Impact on the Conservation Area  
Residential Amenity  
Arboriculture  
Highways/Drainage

## **Officers Assessment:**

### Site and proposal:

1. The property is a large detached house set in a large plot on the west side of Chadlington Road in the North Oxford Victorian Suburb conservation area. It has been extended to the side (south) in a style in-keeping with the original house and has a 30m (approx) garden. It currently has a wide vehicular access directly in front of the front door, as well as a pedestrian gate adjacent to the boundary with number 6. There is a large ginko bilboa tree in the front garden along with various ornamental shrubs and informal planting.
2. Planning permission was granted under application 15/02763/FUL for a single storey rear extension incorporating two glazed lanterns – one towards the rear and one close to the original house, a basement that would be located below the proposed rear extension and extend a further 5.3m beyond its rear wall, demolition to accommodate a glazed lantern adjacent to the original house, removal of a chimney stack and creation of a new vehicular access, boundary wall and bike and bin storage to the front of the property.
3. This application relates to an amendment to the design of the rear ground floor extension.

### Design/ Impact on the Conservation Area:

4. The materials proposed for the rear extension are sympathetic to the host dwelling and its scale is still proportionate to the main house and has not been increased since the approval of application 15/02763/FUL. Whilst a more contemporary addition, it reads as such and is considered to form an appropriate visual relationship with the house. The only outward sign of the basement is a flush, walk-on roof light which is considered acceptable. Materials will be secured by condition to ensure the satisfactory appearance of the extension.
5. The replacement of the close-boarded fencing and introduction of a low wall with brick piers and informal planting behind was allowed under the previous application and was considered to enhance the appearance of the conservation area and to be in-keeping with the character of the suburb. Details will be required by condition of the materials of the wall.
6. Under the previous approval, Officers raised concerns about the proposed formal hedging behind the low wall since this would not be in-keeping with the informal planting style characteristic of the conservation area and would block glimpsed views into the front garden. Ornamental planting behind the wall was requested to be retained and is continued through to this amended application.
7. Bin and bike storage is proposed to the front of the property. This is set back some distance from the road and is therefore considered an appropriate location. Details of the materials will be required by condition to ensure a suitable quality and appearance in the Conservation Area.
8. Overall, the proposal is considered to respect the character and appearance of the existing property and is therefore considered to comply with policies CP1, CP6, CP8 and HE7 of the Local Plan, CS18 of the Core Strategy and HP9 of the Sites and Housing Plan.

Residential amenity:

9. The proposal will have minimal impact on residential amenity and is of the same scale of the previous approval. The only property significantly affected is 6 Chadlington Road and it is considered that, due to the boundary treatment of brick wall and vegetation, and the distance between properties the two properties, the introduction of the rear extension will not harmfully impact this property's light or outlook. The introduction of glazing to this elevation is not considered to cause excessive light pollution to the neighbouring property, 6 Chadlington Road due to the high boundary wall between the properties.
10. The proposal is therefore considered to comply with policies CP10 of the Local Plan and HP14 of the Sites and Housing Plan.

Arboriculture:

11. The proposal requires the removal of 4 existing trees (apple T2; blackthorn T3; laburnum T4; and, whitebeam T7) and construction activities encroach

within the Root Protection Area of mature Gingko T1.

12. The trees to be removed are all low quality and value trees. Apple tree T2, blackthorn T3 and laburnum T4 all stand within the rear garden of 7 Chadlington Road and have no public amenity value. Laburnum T4 is in poor structural condition and should be removed regardless of whether development takes place. Although whitebeam T7 stands in the front garden it is a small, early mature specimen and its removal will not significantly harm public amenity.
13. The Gingko tree, T1, is a higher quality and value tree that is prominent in public views from Chadlington Road. Construction activities encroach within its Root Protection Area (RPA as defined by BS5837:2012) and have potential to damage roots if not carefully undertaken. A detailed final Tree Protection Plan and Arboricultural Method Statement have now been submitted and conditions are recommended that the proposals are carried out in accordance with these reports.
14. Subject to conditions, the proposal is therefore considered to comply with policies NE15, NE16 and CP11 of the Oxford Local Plan.

#### Highways/Drainage:

15. The location of the proposed new vehicle access and dropped kerb will require the existing on-street residents' parking bay to be relocated. An amendment to the Traffic Regulation Order is therefore requested for this by condition to ensure on street parking is not compromised.
16. In the interest of highway safety, pedestrian visibility splays must be provided from the new vehicle access.
17. All additional hard surfaced area must be drained using SUDs methods to ensure the development does not contribute to surface water flooding in accordance with policy CS11 of the Core Strategy..
18. The proposal, with its new vehicular access, is therefore considered acceptable in terms of highway safety in accordance with policy CP1 of the Local Plan.

#### Biodiversity

19. The development includes the removal of a chimney and a section of sliding roof. The building is of an age and fabric that could support bats and is also located in an area that offers good foraging habitat for bats.
20. In accordance with Section 99 of ODPM Circular 06/2005 the presence of protected species such as bats needs to be established before the planning permission is granted, otherwise not all relevant material considerations may have been addressed in making the decision. However, bearing in mind the delay and cost that may be involved,

developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development.

21. In this instance it is considered that there is not sufficient reasonable likelihood of bats roosting within the areas of the property affected by the development to trigger a survey. However the presence of bats cannot be discounted entirely and a small risk remains. In order to account for this it is recommended that an informative is applied to the decision so that the applicant can take appropriate measures should they or evidence of their presence be discovered during removal of roof tiles.

22. The proposal is considered to comply with policy CS12 of the Core Strategy.

### Archaeology

23. Due to the scale and location of the basement proposed, there are no concerns relating to archaeology.

### **Conclusion:**

24. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

### Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

### Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this

application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant approval, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

16/02097/FUL

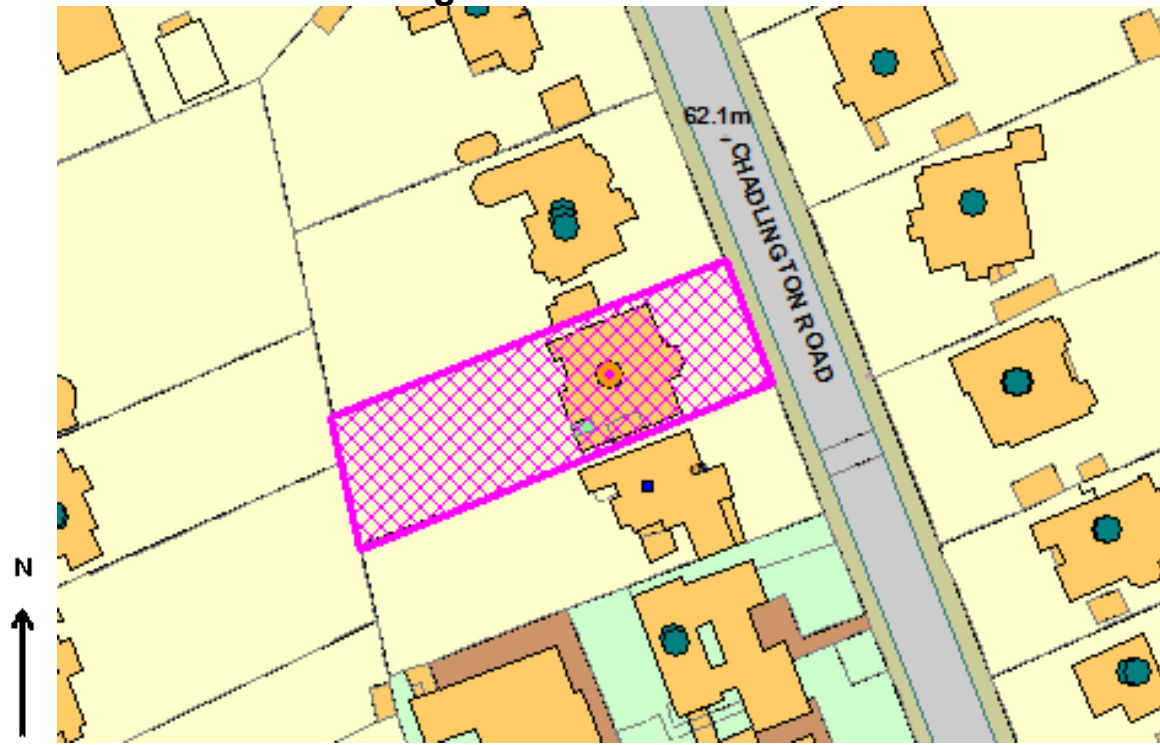
**Contact Officer:** Sarah Orchard

**Date:** 26th September 2016

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# Appendix 1

## 16/02097/FUL - 7 Chadlington Road



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Ordnance Survey 100019348

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West Area Planning Committee

11th October 2016

**Application Number:** 16/00391/FUL

**Decision Due by:** 13 May 2016

**Proposal:** Erection of rear conservatory and garden outbuilding.  
Alterations to windows (Amended Plans).

**Site Address:** 24 Rosamund Road. **Appendix 1.**

**Ward:** Wolvercote Ward

**Agent:** N/A

**Applicant:** Miss Tania Brown

**Application Called in** Cllr Goddard supported by Cllrs Gant, Fooks, Gotch and Wade for the following reasons – the shed is overly bulky and may not be located on the applicants land.

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## **Recommendation:**

The West Area Planning Committee are recommended to grant planning permission for the following reasons

- 1 The proposed development is acceptable in design terms and would not cause unacceptable levels of harm to the amenities of the neighbouring properties. The proposal therefore accords with policies CP1, CP6, CP8 and CP10 of the Local Plan, Policies HP9 and HP14 of the Sites and Housing Plan and Policy CS18 of the Core Strategy.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 3 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

## **Conditions:**

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials as specified

## **Main Local Plan Policies:**

### **Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

**CP6** - Efficient Use of Land & Density

**CP8** - Design Development to Relate to its Context

**CP10** - Siting Development to Meet Functional Needs

### **Core Strategy**

**CS18\_** - Urban design, town character, historic environment

### **Sites and Housing Plan**

**HP9\_** - Design, Character and Context

**HP14\_** - Privacy and Daylight

**MP1** - Model Policy

### **Other Material Considerations:**

National Planning Policy Framework

Planning Practice Guidance

### **Relevant Site History:**

14/02539/FUL - Erection of single storey rear extension. Enlargement of window on first-floor north side elevation and insertion of new window on ground-floor north side elevation (Amended plans): Approved

15/01326/FUL - Erection of single storey rear extension: Approved

### **Representations Received:**

1no. objection comment received – material planning considerations within the comment include overshadowing of the neighbouring garden and accuracy of the plans.

### **Statutory and Non-Statutory Consultees:**

Highways – no comment.

### **Issues:**

Design

Residential Amenity

## **Officers Assessment:**

### Site and proposal:

1. 24 Rosamund Road is a two storey semi-detached property located in the Wolvercote area of Oxford. It is typical of those found in the area. The property falls outside the Wolvercote Conservation Area and Environment Agency Flood Zones 2 and 3. This application relates to the erection of a single storey rear conservatory and also seeks retrospective permission for a shed at the bottom of the rear garden. Following receipt of amended plans, the height of the shed was adjusting to reflect what had been built and the conservatory was moved away from the boundary with 22 Rosamund Road.

### Design:

2. The shed sits at the bottom of the garden in an area where properties benefit from long back gardens. There are also a number of large sheds in the rear gardens of both Rosamund Road and Elmthorpe Road to the rear of the host property. The shed requires planning permission as it is located within 2 metres of a boundary and exceeds 2.5 metres in height. The proposal exceeds this height by approximately 80cm. This is shorter than the outbuilding approved at 26 Rosamund Road (adjoining property) which has a height of 3.9 metres.
3. The design of the shed is typical of garden outbuildings and is constructed of timber and painted yellow to match the host dwellinghouse.
4. The proposed conservatory, following the receipt of amended plans was relocated to the rear of the existing two storey rear extension. This helps break up the massing of the extensions which have been gradually added to the property over time. Whilst there have been numerous extensions to the property, the scale of the resultant property is not out of keeping with the scale of properties found in Rosamund Road.
5. The proposed materials of UPVC and glazing are also considered acceptable and standard in the use of a conservatory outside of the Conservation Area.
6. The proposal is therefore considered to comply with policies CP1, CP6 and CP8 of the Local Plan, CS18 of the Core Strategy and HP9 of the Sites and Housing Plan.

### Residential Amenity:

7. Concerns have been raised that the shed will cause overshadowing of the neighbouring gardens. The proposed shed is located at the end of the garden away from the light sources to neighbouring properties. The elevations are largely obscured by the fences surrounding the site and the roof slopes away from the gardens of both 22 and 24 Rosamund Road. It is therefore considered that it would be unreasonable to consider that the proposed shed has a detrimental impact on the amenity of neighbouring occupiers in terms of

loss of light or overbearing impact. In terms of privacy the proposed fenestration in the form of high level rooflights facing 22 Rosamund Road and windows facing into the garden of the host property on the north and west elevations. The proposal is therefore not considered to cause a detrimental level of overlooking of neighbouring properties.

8. Following receipt of amended plans the conservatory was moved away from the boundary with 22 Rosamund Road as the proposal was considered to be overbearing and result in a loss of light to this property. The proposal now complies with 45 degree guidelines from both the mains rear facing light sources of both 22 and 24 Rosamund Road and is therefore not considered to cause a detrimental loss of light to these properties or an overbearing impact.
9. Whilst the conservatory is to be constructed largely of glass, it is located at ground floor level and due to the boundary treatments around the rear garden of high fences is not considered to cause a detrimental loss of privacy to neighbouring occupiers.
10. The proposal is therefore considered to comply with policies CP10 of the Local Plan and HP14 of the Sites and Housing Plan.

#### **Conclusion:**

11. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan and therefore officer's recommendation to the committee is to approve the development subject to the conditions listed above.

#### **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

#### **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant permission, officers consider that the

proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

16/00391/FUL

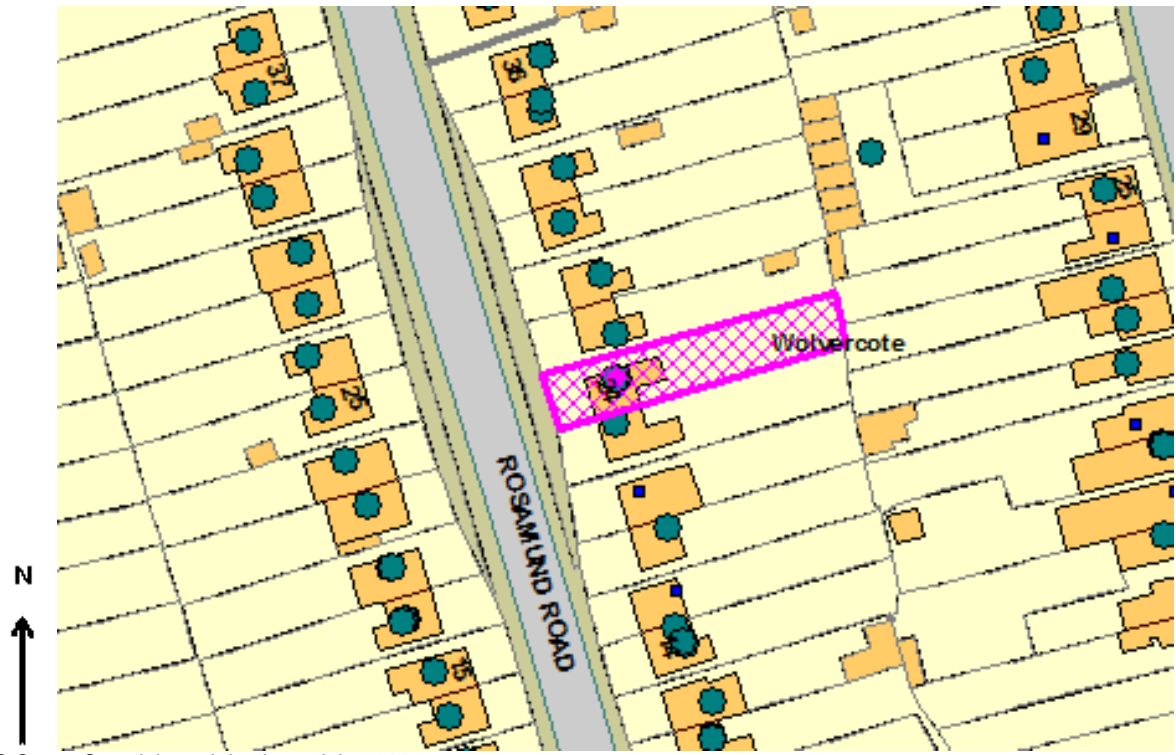
**Contact Officer:** Sarah Orchard

**Date:** 22nd September 2016

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# Appendix 1

## 16/02271/FUL - 24 Rosamund Road



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Ordnance Survey 100019348

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## MINUTES OF THE WEST AREA PLANNING COMMITTEE

Tuesday 13 September 2016



**COUNCILLORS PRESENT:** Councillors Upton (Chair), Landell Mills (Vice-Chair), Cook, Fooks, Hollingsworth, Pegg, Price, Tanner and Coulter.

**OFFICERS PRESENT:** Michael Morgan (Lawyer), Fiona Bartholomew (Principal Planner), David Stevens (Environmental Health Officer), David Edwards (Executive Director City Regeneration and Housing), Patsy Dell (Head of Planning & Regulatory Services), Sarah Stevens (Planning Service Transformation Consultant) and Catherine Phythian (Committee Services Officer)

The Committee recorded their regret at the sad news of the death of Jeremy Thomas, Head of Law and Governance.

#### 44. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Cllr Tidball (substitute Cllr Coulter).

The Chair advised that a member of the public would be making an audio recording of the meeting.

#### 45. DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 46. EAST WEST RAIL PHASE 1 - RAIL DAMPING ROUTE SECTIONS H (16/01858/VAR) AND I-1 (16/01861/VAR)

##### Discussion

The Committee considered two applications for the removal of conditions in relation to the use of 'Tata SilentTrack' in route sections H and I-1.

The Planning Officer presented the report. In summary she explained that that planning officers' were not saying that the use of 'Tata SilentTrack' **was** reasonably practicable but that the applicant had not submitted a convincing

case that the use of 'Tata SilentTrack' **was not** reasonably practicable for use on route sections H and I-1.

The following residents spoke against the application: Mr Mike Gotch, Mr Keith Dancey, Mr Paul Buckley, Mr Adrian Olsen.

Representatives from Network Rail gave a presentation in support of the application.

The Committee asked questions of the officers and Network Rail representatives about the details of the applications.

In reaching their decisions, the Committee considered the officers report and presentation, the address of the public speakers and the presentation by Network Rail.

The Committee concluded that the applicant had not demonstrated to the Council's overall satisfaction that the use of 'Tata SilentTrack' was not reasonably practicable for use on route sections H and I-1.

## **Decisions**

### **(a) 16/01858/VAR: to remove condition 2 of 15/00956/CND in relation to the use of Tata SilentTrack in Section H**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **refuse** planning application 16/01858/VAR: to remove condition 2 of 15/00956/CND in relation to the use of 'Tata SilentTrack' in Section H for the following reason:

It has not been demonstrated to the satisfaction of the Council that the provision of rail damping is not reasonably practicable for route-section H. While it may be reasonable to expect that rail damping will provide additional noise attenuation, and that safety and safe working conditions would not prevent the installation of rail damping, insufficient regard has been given in the application to local conditions and the financial considerations of installing rail damping. The application is therefore contrary to policies CP6 and CP10 of the adopted Oxford Local Plan 2001-2016, and policies CS13 and CS27 of the adopted Core Strategy 2026.

### **(b) 16/01861/VAR: to remove condition 2 of 15/03503/CND in relation to the use of 'Tata SilentTrack' in Section I-1**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **refuse** planning application 16/01861/VAR: to remove condition 2 of 15/03503/CND in relation to the use of 'Tata SilentTrack' in Section I-1 for the following reason:

It has not been demonstrated to the satisfaction of the Council that the provision of rail damping is not reasonably practicable for route-section I-1. While it may be reasonable to expect that rail damping will provide additional noise attenuation, and that safety and safe working conditions would not prevent the installation of rail damping, insufficient regard has been given in the application to local conditions and the financial considerations of installing rail damping. The application is therefore contrary to policies CP6 and CP10 of the adopted Oxford Local Plan 2001-2016, and policies CS13 and CS27 of the adopted Core Strategy 2026.

#### **47. EAST WEST RAIL PHASE 1 - NOISE MONITORING (2 APPLICATIONS) AND VIBRATION MONITORING ON ROUTE SECTIONS H AND I-1 ( 3 APPLICATIONS)**

##### **Discussion**

The Committee considered five applications to vary conditions in relation to noise and vibration monitoring on route sections H and I-1.

The Planning Officer presented the report. She reminded the Committee that when they had approved the original applications subject to the condition to which these variations refer they had been advised by officers that the condition would not meet the legal or policy tests of the National Planning Policy Framework. She advised that officers remained of that view and for that reason were recommending approval of the applications to vary that condition. She said that in respect of application 16/01410/VAR (vibration monitoring on the plain line, route H) the applicant had indicated that they were prepared to conclude a Unilateral Undertaking to conduct some additional vibration monitoring.

The following residents spoke against the application: Mr Mike Gotch, Mr Keith Dancey, Mr Paul Buckley, Mr Michael Drolet, Mr Adrian Olsen.

Representatives from Network Rail gave a presentation in support of the applications.

The Committee asked questions of the officers and Network Rail representatives about the details of each of the applications.

In reaching their decisions, the Committee considered the officers report, presentation and the address of the public speakers.

The Committee concluded that in respect of the following applications it was reasonable to remove or vary the conditions previously imposed as the proposed monitoring arrangements were in line with the original deemed permission condition 19 (1, 6):

16/01410/VAR

16/01411/VAR

16/01406/VAR

16/01412/VAR

However, in regard to application 16/01412/VAR the Committee were mindful of the statements from local residents about the high levels of vibration experienced, and they considered that it was unreasonable to dispense with any vibration monitoring arrangements for plain route, section I-1 purely on the basis of modelling assumptions.

### Decisions

**(a) 16/01410/VAR: Vibration monitoring on plain line, route section H (re - 13/03202/CND, Condition 3)**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **approve** application 16/01410/VAR: Vibration monitoring on plain line, route section H (re - 13/03202/CND, Condition 3) subject to the following conditions as amended below:

- the conclusion of a Unilateral Undertaking (to monitor vibration for four days at 3 properties close to the line in route section H) the decision upon which to be delegated to the Head of Planning and Regulatory Services *in consultation with the Chair of West Area Planning Committee*

and

#### Conditions:

1. Development in accordance with application documents
2. Monitoring in accordance with submitted scheme

**(b) 16/01411/VAR: Vibration monitoring at switches and crossings, route section H (re - 14/00232/CND, Condition 3)**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **approve** application 16/01411/VAR: Vibration monitoring at switches and crossings, route section H (re - 14/00232/CND, Condition 3) subject to the following condition:

#### Conditions:

1. Development in accordance with application documents

**(c) 16/01406/VAR: Noise monitoring route section H (re - 15/00956/CND, Condition 4)**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **approve** application 16/01406/VAR: Noise monitoring route section H (re - 15/00956/CND, Condition 4) subject to the following conditions:

**Conditions:**

1. Development in accordance with application documents
2. Implementation of SilentTrack
3. Monitoring in accordance with submitted scheme.

**(d) 16/01412/VAR: Vibration monitoring on plain line, route section I-1(re - 15/03587/CND, Condition 3)**

On being put to the vote the Committee agreed the resolution as set out below.

The Committee resolved to **refuse** planning application 16/01412/VAR: Vibration monitoring on plain line, route section I-1(re - 15/03587/CND, Condition 3) for the following reason: that in view of the statements from local residents about the high levels of vibration experienced it was unreasonable to dispense with any vibration monitoring arrangements for plain line, route section I-1 purely on the basis of modelling assumptions.

**(e) 16/01409/VAR: Noise monitoring route section I-1 (re-15/03503/CND, Condition 4)**

On being put to the vote the Committee agreed with the officer recommendation.

The Committee resolved to **approve** application 16/01409/VAR: Noise monitoring route section I-1 (re-15/03503/CND, Condition 4) subject to the following conditions:

**Conditions:**

1. Development in accordance with application documents
2. Implementation of SilentTrack
3. Monitoring in accordance with submitted scheme.

**48. EAST WEST RAIL PHASE 1 - NOISE SCHEME OF ASSESSMENT (16/01634/CND) AND VIBRATION SCHEME OF ASSESSMENT FOR ROUTE I-2 (16/01635/CND)**

**Discussion**

The Committee considered two applications for Noise and Vibration Scheme of Assessments for route 1-2.

The Planning Officer presented the report. She informed the Committee that officers were proposing an amendment to the published recommendation to include the following condition:

Within three months of this approval, proposals shall be submitted for the written approval of the local planning authority showing how at-source noise attenuation by rail damping to at least the standard achievable by the use of Tata SilentTrack can be incorporated into the scheme. The development to which this approval relates shall not be brought into operation EITHER without that written approval having been obtained and other than in accordance with such approved details OR without the Council having given written confirmation that it is satisfied that the provision of such rail dampening is not reasonably practicable.

She explained that as the case for not installing 'Tata SilentTrack' on route sections H and I-1 had not been made by Network Rail it followed that the same requirement should apply, by condition, to route section I-2.

Mr Keith Dancey, resident, spoke against the application. Representatives from Network Rail gave a presentation in support of the application.

The Committee asked questions of the officers about the details of the application and in particular to determine the legal and planning policy reasons for the proposed amendment to the recommendation to include the requirement to show how at-source noise attenuation by rail damping to at least the standard achievable by the use of Tata SilentTrack can be incorporated into the schemes.

In reaching their decision, the Committee considered the officers report, presentation and the address of the public speakers.

The Committee concluded that officers had not provided sufficient justification for their recommendation to impose a condition to incorporate Tata SilentTrack on route I-2.

## **Decisions**

### **(a) 16/01634/CND: Noise Scheme of Assessment for route section I-2**

Notwithstanding the officer recommendation for approval, as amended with condition, and on being put to the vote, the Committee resolved to **defer** determination of application 16/01634/CND: Noise Scheme of Assessment for route section I-2 to allow planning officers to provide more detail on the legal and planning reasons for recommending approval subject to a condition requiring at-source mitigation.

**(b) 16/01635/CND: Vibration Scheme of Assessment for route section I-2**

Notwithstanding the officer recommendation, as amended, for approval and on being put to the vote, the Committee resolved to **defer** determination of application 16/01635/CND: Vibration Scheme of Assessment for route section I-2 to allow planning officers to provide more detail on the legal and planning reasons for recommending approval subject to a condition requiring at-source mitigation.

**49. MINUTES**

The Committee resolved to approve the minutes of the meeting held on 2 August 2016 as a true and accurate record.

**50. FORTHCOMING APPLICATIONS**

The Committee noted the list of forthcoming applications.

**51. DATES OF FUTURE MEETINGS**

The Committee noted the dates of future meetings.

**The meeting started at 6.00 pm and ended at 8.40 pm**

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