

Agenda

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West Area Planning Committee

Date: **Tuesday 21 February 2017**

Time: **6.00 pm**

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

For any further information please contact the Committee Services Officer:

Catherine Phythian, Committee and Member Services Officer

Telephone: 01865 252402

Email: democraticservices@oxford.gov.uk

If you intend to record the meeting, it would be helpful if you speak to the Committee Services Officer before the start of the meeting.

West Area Planning Committee

Membership

Chair	Councillor Louise Upton	North;
Vice-Chair	Councillor Tom Landell Mills	St. Margaret's;
	Councillor Colin Cook	Jericho and Osney;
	Councillor Steven Curran	Iffley Fields;
	Councillor Jean Fooks	Summertown;
	Councillor Alex Hollingsworth	Carfax;
	Councillor Jennifer Pegg	Northfield Brook;
	Councillor Bob Price	Hinksey Park;
	Councillor John Tanner	Littlemore;

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

Copies of this agenda

Reference copies are available to consult in the Town Hall Reception. Agendas are published 6 working days before the meeting and the draft minutes a few days after.

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- viewed using the computers in the Customer Services, St Aldate's, or
- subscribed to electronically by registering online at mycouncil.oxford.gov.uk

AGENDA

Pages

1 Apologies for absence and substitutions

2 Declarations of interest

3 East West Rail Phase 1 - 2 applications

11 - 90

The attached report and appendices covers both of the East West Rail Phase 1 applications included on this agenda.

4 East West Rail Phase 1 - 16/02507/CND for route section H

Site address: 16/02507/CND for route section H

Proposal: Details submitted in compliance with condition 19 item 2 (operational noise and vibration) 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).

Officer recommendation:

West Area Planning Committee is recommended to **approve** this application and condition 19 be partially approved in relation to the Noise Scheme of Assessment for route section H for the following reasons:

1. The submitted Noise Scheme of Assessment is considered to be robust and has demonstrated that the required standards of noise mitigation set out in the Noise and Vibration Mitigation Policy (January 2011) will be achieved subject to the installation of the specified mitigation measures.
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 and advice from Queens Counsel and external technical advisors. Any harm that the development would otherwise give rise to can be offset by the conditions imposed.

Subject to the following condition, which has been imposed for the reason stated:

1. Development in accordance with submitted details

5 East West Rail Phase 1 - 16/02509/CND for route section I-1

Site address: 16/02509/CND for route section I-1

Proposal: Details submitted in compliance with condition 19 item 2 (operational noise and vibration) 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).

Officer recommendation:

West Area Planning Committee is recommended to **approve** this application and condition 19 be partially approved in relation to the Noise Scheme of Assessment for route section I-1 for the following reasons:

1. The submitted Noise Scheme of Assessment is considered to be robust and has demonstrated that the required standards of noise mitigation set out in the Noise and Vibration Mitigation Policy (January 2011) will be achieved subject to the installation of the specified mitigation measures.
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 and advice from Queens Counsel and external technical advisors. Any harm that the development would otherwise give rise to can be offset by the conditions imposed.

Subject to the following condition, which has been imposed for the reason stated:

1. Development in accordance with submitted details

6 16/03166/FUL: Junction Of Headington Road and Morrell Avenue, Oxford

Site address: Junction Of Headington Road and Morrell Avenue, Oxford

Proposal: Installation of stone memorial

Officer recommendation:

That the West Area Planning Committee **approve** the planning application (16/03166/FUL) for the installation of a memorial stone in this location, for the reasons set out in the report and subject to and including the conditions listed below:

Conditions:

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials as approved
4. Landscape plan - as approved
5. Landscape - carry out by completion
6. Benches – further details required
7. Tree Protection Plan – details required

7 Minutes

113 - 122

To approve as a true and accurate record the minutes of the meeting held on 24 January 2017.

8 Forthcoming applications

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

15/01601/FUL: 26 Norham Gardens, Oxford, OX6 6QD	Called in
16/02894/FUL: 4 North Parade Avenue, Oxford, OX2 6LX	Called in
17/00209/CT3: 161 - 161B Iffley Road, Oxford	Council application
17/00214/CT3: 144 - 146 Covered Market, Market Street, Oxford, OX1 3DZ	Council application
17/00155/FUL: The Hollybush Inn, 106 Bridge Street, Oxford, OX2 0BD	Called in
Chiltern Line - East West Rail link - all applications	
17/00188/FUL: Eastgate Hotel, 73 High Street, Oxford, OX1 4BE	Non delegated app
16/03056/FUL: Balliol College Sports Ground, Jowett Walk, Oxford, OX1 3TN	Major application

16/02689/FUL: Unither House, 15 Paradise Street, Oxford, OX1 1LD (was Cooper Callas)	Major application
16/02293/FUL: 40 St Thomas Street, Oxford, OX1 1JP	Non-delegated application
16/02945/FUL: Oxford Business Centre Osney Lane Oxford Oxfordshire OX1 1TB	Major application
16/02745/CT3: Seacourt Park And Ride, Botley Road, Oxford	Major application - Council application
16/03062/FUL: Somerville College, Woodstock Road, Oxford, OX2 6HD	Major application
15/03524/FUL: Oxford Spires Four Pillars Hotel, Abingdon Road, Oxford, OX1 4PS	Major application
16/02152/CT3: 161 - 161B Iffley Road, Oxford	Council application
16/03318/FUL: Galilee Rooms, 28 St Thomas' St	Call in
16/01220/FUL & 16/01221/FUL: 16 Northmoor Road, Oxford, OX2 6UP	Called in
16/03067/CT3: 144-146 Covered Market, Market Street, Oxford	
16/01541/FUL: The Honey Pot, 8 Hollybush Row, OX1 1JH	Non-delegated application
16/03189/FUL: 8 Hollybush Row, Oxford, OX1 1JH	Non-delegated application

9 Dates of future meetings

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

14 Mar 2017	14 November 2017
11 Apr 2017	12 December 2017
9 May 2017	16 January 2018
13 June 2017	21 February 2018
11 July 2017	13 March 2018
1 August 2017	10 April 2018
12 Sept 2017	21 May 2018
10 October 2017	12 June 2018

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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WEST AREA PLANNING COMMITTEE

21 February 2017

Application Number: 16/02507/CND for route section H

16/02509/CND for route section I-1

Decision Due by: 21 November 2016

Proposal: Details submitted in compliance with condition 19 item 2 (operational noise and vibration) 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).

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

Wards: Wolvercote, Summertown, and St Margaret's

Agent: ERM

Applicant: Network Rail

Recommendation:

West Area Planning Committee is recommended to **approve** these applications and condition 19 be partially approved in relation to the respective Noise Schemes of Assessment for route sections H and I-1 for the following reasons:

- 1 The submitted Noise Scheme of Assessment is considered to be robust and has demonstrated that the required standards of noise mitigation set out in the Noise and Vibration Mitigation Policy (January 2011) will be achieved subject to the installation of the specified mitigation measures.
- 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 and advice from Queens Counsel and external technical advisors. Any harm that the development would otherwise give rise to can be offset by the conditions imposed.

Subject, respectively, to the following condition, which has been imposed for the reason stated:-

1. Development in accordance with submitted details

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 Material Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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:

Over the last 4 years, the Council has dealt with 40 applications relating to East West Rail Phase 1 (EWRP1). The applications specifically relating to condition 19 are listed below.

Planning reference	TWAO/OCC Condition	Subject	Date of decision (approved unless stated)
13/00907/CND	19(2)	Appointment of Independent Experts (IEs)	02.05.13
13/03202/CND	19(2)	Operational vibration - plain line, section H	30.06.15
14/00232/CND	19(2)	Operational vibration - switches + crossings, route section H	30.06.15
14/02962/CND	19(2)	Appointment of replacement IE for Noise	06.11.14
15/00956/CND	19(2)	Operational noise – route section H	30.06.15
15/03110/CND	19(13)	Noise barrier details - route section H	24.12.15
15/03503/CND	19(2)	Operational noise route section I1	18.02.16
15/03587/CND	19(2)	Operational vibration route section I1	16.02.16
16/00456/CND	19(13)	Noise barrier details – Quadrangle House and Bladon Close	14.03.16

16/00818/CND	19(13)	Noise barrier details- route section I/1	09.05.16
16/01406/VAR	15/00956/CND Condition 4	Noise monitoring route section H	10.10.2016
16/01409/VAR	15/03503/CND Condition 4	Noise monitoring route section I1	10.10.2016
16/01410/VAR	13/03202/CND Condition 3	Vibration monitoring on plain line, route section H	Awaiting execution and delivery of Unilateral Undertaking
16/01411/VAR	14/00232/CND Condition 3	Vibration monitoring at switches and crossings, route section H	10.10.2016
16/01412/VAR	15/03587/CND Condition 3	Vibration monitoring on plain line, route section I1	10.10.2016
16/01634/CND	15/01978/CND Condition 1	NSoA route section I2	18.10.2016
16/01635/CND	15/01978/CND Condition 1	VSoA route section I2	18.10.2016
16/01858/VAR	15/00956/CND Condition 2	Remove requirement for implementation of Tata SilentTrack in route section H	Refused 23.09.2016
16/01861/VAR	15/03503/CND Condition 2	Remove requirement for implementation of Tata SilentTrack in route section I-1	Refused 23.09.2016
16/02710/CND	19(11)	List of properties with mitigation route section H	05.12.2016
16/02732/CND	19(11)	List of properties with mitigation route section I1	05.12.2016

Representations Received:

In respect of **route section H** (16/02507/CND), in excess of 100 comments have been received, all of which are available on the website, from addresses in Aldrich Road, Bainton Road, Banbury Road, Bladen Close, Blandford Avenue, Blenheim Drive, Burgess Mead, Canterbury Road, Carey Close, Cox's Ground, Fairlawn Flats, First Turn, Five Mile Drive, Foundry House, Frenchay Road, Furnace House, Godstow Road, Hayfield Road, Home Close, Kingston Road, Kirk Close, Lakeside, Merrivale Square, Navigation Way, Pixey Place, Plater Drive, Polstead Road, Quadrangle House, Stone Meadow, Summerhill Road, Upper Close, Wolvercote Green, Woodstock Road.

These are reported in **Appendix 2**. Network Rail's (NR) responses to these comments are in **Appendix 3**.

In respect of **route section I-1** (16/02509/CND), in excess of 160 comments have been received, all of which are available on the website, from addresses in Carey Close, Bainton Road, Banbury Road, Blenheim Drive, Bowood Court, Brindley Close, Burgess Mead, Butler Close, Canterbury Road, Chalfont Road, Complins Close, Cox's Ground, Ferry Pool Road, Fairlawn Flats, Frenchay Road, Hamilton Road, Hayfield Road, The Hayfield Residents Association, King's Cross Road, Kingston Road, Lakeside, Lark Hill, Leckford Road, Lonsdale Road, Mayfield Road, Merrivale

Square, Merton Court, Navigation Way, Oxford Road, Plater Drive, Polstead Road, Quadrangle House, St Margaret's Road, Southmoor Road, Stone Meadow, The Crescent, The Paddox, The Villas, Wolsey Road, Wolvercote Green, Woodstock Road.

These are reported in **Appendix 4**, NR's responses in **Appendix 5**.

In December 2016 a local resident (Professor Buckley) submitted a paper detailing what he regarded as serious errors and flaws in NR's application in respect of (i) the performance of rail dampers; and, (ii) the uncertainty surrounding the prediction of railway noise associated with: (a) the type of rail pad that will be installed as part of the EWR scheme; and (b) the version of noise modelling software used. These matters are covered in the report.

Background

1. 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 17th October 2012. Construction of the scheme is nearing completion and passenger services commenced on 12th December 2016.
2. **Condition 19** of the deemed planning permission (**Appendix 6**) focusses on operational noise and vibration and was imposed in order to:

"ensure that operational noise and vibration are adequately mitigated at residential and other noise sensitive premises".
3. **Condition 19(1)** states that the monitoring and mitigation of operational noise and vibration associated with the scheme, shall be undertaken in accordance with condition 19 and the Noise and Vibration Mitigation Policy (NVMP, dated January 2011, **Appendix 7**) which was approved by the Secretary of State as part of the deemed planning permission.
4. **Condition 19(2)** requires that development shall not commence within each route section until detailed schemes of assessment of predicted operational noise and vibration, and details of proposed monitoring and mitigation measures have been approved by the local planning authority.
5. *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.

The approved Noise and Vibration Schemes of Assessment (route sections H and I-1)

6. The West Area Planning Committee (WAPC) approved the Noise and Vibration Schemes of Assessment for route sections H and I-1 under references 15/00956/CND (route section H, approved 30th June 2015) and 15/03503/CND (route section I-1, approved 18th February 2016). The approvals were the subject of several planning conditions.
7. Condition 2 to both of those approvals was recommended by officers and concerned the installation of rail damping:

2 Within three months of this partial approval under condition 19 of the deemed planning permission, 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 Silentrail 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.

Reason: The local planning authority is not satisfied that rail damping as an at source mitigation measure has been shown to not be reasonably practicable in the absence of any attempt on the part of the applicant to secure approval for the use of such a measure.

8. Condition 3 to both approvals applies restrictions to the patterns of train services. It was imposed by the WAPC contrary to officer advice that there was no legal basis for the condition:

3 Passenger train movements on Section H 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)

9. Condition 4 to both approvals requires more extensive noise and vibration monitoring than is required by the NVMP. It was imposed by the WAPC contrary to officer advice and:

4 Section H/I1 shall not be made available for use by trains until provision for continuous monitoring of noise has been effected for noise sensitive properties throughout section I1 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 I1 is first made available for use for trains. In the event that the monitoring results provided to the Council

exceed the noise thresholds in the Noise and Vibration Mitigation Policy then additional mitigation measures shall be effected 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)

10. In summer 2016 NR made multiple applications for changes to the conditions imposed on the approvals of the Noise and Vibration Schemes of Assessment (NVSoA).
11. Two applications sought to remove the requirement for implementation of rail damping (condition 2). These were refused by WAPC at its meeting on 13th September 2016 on the grounds that it had not been demonstrated that rail damping is not reasonably practicable to install:

Planning ref	Subject	Date of decision notice
16/01858/VAR	Remove requirement for implementation of Tata SilentTrack in route section H	Refused 23.09.2016
16/01861/VAR	Remove requirement for implementation of Tata SilentTrack in route section I-1	Refused 23.09.2016

12. Five applications requested the removal of the monitoring condition (condition 3). These were approved by the Planning Review Committee (PRC) on 5th October 2016:

Planning ref	Subject	Date of decision notice
16/01406/VAR	Noise monitoring route section H	10.10.2016
16/01409/VAR	Noise monitoring route section I-1	10.10.2016
16/01410/VAR	Vibration monitoring on plain line, route section H	Awaiting execution and delivery of Unilateral Undertaking
16/01411/VAR	Vibration monitoring at switches and crossings, route section H	10.10.2016
16/01412/VAR	Vibration monitoring on plain line, route section I-1	10.10.2016

Format of the current applications

13. The two current applications re-submit the approved NSoAs for route sections H and I-1 (approved under 15/00956/CND for route section H; and 15/03503/CND for route section I-1). All the previously approved documents for the NSoAs are re-submitted together with a Supplementary Statement setting

out additional information and analysis.

14. Through these applications, NR asks that the NSoAs be approved without the imposition of conditions applied when the NSoAs were previously approved (under 15/00956/CND and 15/03503/CND) namely: the rail damping condition, the condition setting out limitations on the pattern of rail services, and the monitoring condition. As noted in paragraph 12 above, the monitoring condition was removed from 15/00956/CND and 15/03503/CND by the PRC in October.

Purpose of the Current Applications

15. NR has not yet lodged appeals against the Council's refusals in respect of rail damping (165/01858/VAR and 16/01861/VAR) but has stated that if the current applications are not approved it intends to appeal on the grounds that the rail damping condition (condition 2) was neither necessary nor reasonable so that its imposition did not meet the NPPF tests for conditions.
16. Similarly NR has stated that if these applications are not approved it will appeal against condition 3 relating to the pattern of train services on the grounds that condition 3 was neither necessary nor reasonable: its imposition did not meet the NPPF tests for conditions.
17. In respect of appeals the Government's Planning Practice Guidance (PPG) states that:

"before making an appeal the party seeking permission should first consider re-engaging with the local planning authority to discuss whether any changes to the proposal would make it more acceptable and likely to gain planning permission. A revised application could then be submitted."

18. The purpose of these applications (relating to route section H and route section I-1 respectively) is therefore, prior to the lodging of appeals:
 - to enable NR to re-engage with the Council on the issue of rail damping in route sections H and I-1: the applications contain additional information and analysis to that presented in summer 2016; and,
 - to request that the Council reconsiders the imposition of condition 3 regarding limitations on the patterns of train services.

Purpose of this Report

19. The purpose of this report is:
 - i. to consider the rail damping issue again in the light of the further information submitted including: whether the imposition of the rail damping condition (condition 2) on the current applications is necessary and reasonable; and, whether the provision of rail damping is reasonably practicable; and,

- ii. to reconsider whether the imposition of the condition restricting the patterns of rail services (condition 3) is necessary and reasonable.
20. To assist with the determination of these applications external advice has been sought: technical advice from Arup on rail damping (**Appendix 8**); and advice from Queen's Counsel on rail damping and the patterns of rail services (**Appendix 9**). Queen's Counsel's Advice was formulated in the light of Arup's technical advice. 'members

Rail damping

21. Rail damping is a form of rail noise mitigation which involves the installation of steel sections embedded in an elastomer coating which are clipped at intervals along each side of each rail. Rail damping can help to reduce noise that is radiated from the rails themselves, but it does not mitigate any of the engine, traction, wheel or other noise from locomotives and rolling stock. SilentTrack is the trade mark of a rail damping product made by TATA Steel.

NR submission

22. As noted, these applications consist of all the previously approved documents together with additional information in the form of a Supplementary Statement on rail damping (2nd November 2016). The Supplementary Statement responds to the points raised in the refusal of the condition discharge by this Committee in September 2016. It notes that NR has invested £3.5 million in environmental mitigation associated with East West Rail Phase 1 in Oxford.
23. In summary the key points in NR's Supplementary Statement are:
 - a. it is fundamentally inappropriate to assert that removal of the need for property insulation is a benefit since insulation reduces noise within properties by substantially more than can be achieved by rail damping (10dB and 2.5dB to 3dB respectively);
 - b. there is no evidence in the UK or other countries, of the reduction of maximum noise levels (i.e. the pass-by noise from individual trains) achievable from rail damping;
 - c. rail damping alone cannot achieve the noise standards of the NVMP without being installed in combination with extensive noise barriers and property insulation. NR asserts that the provision of mitigation should be viewed holistically;
 - d. where properties would benefit from an improvement as a result of rail damping this is only marginal (up to 2.5dB to 3dB), is not likely to be noticeable, and would involve significant cost;
 - e. on financial considerations the test is not whether NR can afford rail damping but whether, as a publicly funded body, the costs are disproportionately large relative to the benefits;

- f. WebTAG is the only way of comparing directly the costs and benefits of rail damping. The assumptions used in NR's analysis properly reflect local conditions. The Council has not suggested other analytical tools for this benefit/cost exercise;
 - g. None of the scenarios for installing rail damping presents value for money because the benefit to cost ratios are too low:
 - on the whole of section H = 0.20
 - on parts of section H where there is a residual impact after the installation of barriers = 0.24
 - where the trigger levels for statutory noise insulation are exceeded in section H = 0.28
 - on parts of section I-1 where there is a residual impact after the installation of barriers = 0.57. The submission notes that the WebTAG assessment showed that 110 properties in this section could marginally benefit but that this does not provide adequate value for money based on Department for Transport criteria.
24. NR concludes that on the evidence submitted rail damping does not represent value for money given that the costs are grossly disproportionate to the benefits. The test of reasonable practicality is not met and the NSoAs should be approved without the rail damping condition that was imposed on the previous consents.

Arup advice

25. Arup was asked to comment on particular aspects of NR's Supplementary Statement, some of which referred to previous advice from them used in the officer report to the WAPC meeting on 13th September 2016. Arup has reasserted why 'at source' mitigation is preferred to sound insulation:
- the benefits of 'at source' mitigation are universal;
 - noise insulation is intrusive and take-up cannot be relied upon (typically 50%); and,
 - noise insulation benefits diminish over time and are not permanent.
26. Arup agrees that rail dampers would provide reduced benefit if maximum noise levels are being generated by sources other than wheel/rail rolling noise and suggests that greater certainty on this point could be established by clarification of exactly what is contributing to maximum noise levels at given locations on this route. However, they point out that an underlying assumption in the NSoA is that maximum noise levels from freight off-power are a result of rolling noise not traction (engine) noise.
27. Arup agrees that the lengths of rail damper installation proposed by NR in their Supplementary Statement are reasonable for use in the analysis of benefit/cost ratio.
28. Arup agrees that in general the use of WebTAG to inform mitigation decisions is appropriate, though they do not agree with the way that it has been used in

the NR submission. They say that if the benefit/cost ratio of noise barriers together with rail damping were to be carried out (rather than rail damping in isolation) it would be likely to produce a ratio nearer to 1. Arup suggests that it is for all parties to consider and agree what mitigation is reasonable and sustainable within the context of the NVMP.

29. Arup has also advised on both Professor Buckley's paper of December 2016 and ERM's response to it. Arup has concluded that:

(i) 2.5dB is a reasonable estimate of the noise reduction that rail dampers would achieve on EWR - the additional studies cited by Professor Buckley do not alter that conclusion;

(ii) there is evidence to support the noise predictions used by NR with the type of rail pads implemented; and,

(iii) there is no uncertainty in the noise modelling.

Queen's Counsel's advice

30. Queen's Counsel advises that NR's approach is permissible (paragraphs 77 to 79 of the Advice):

"77. C19 and the NVMP has to be applied with judgment and in a commonsense way. I cannot read the NVMP as always requiring At Source first irrespective as to the facts, the context and the efficacy of the various options. Where At Source will not be sufficient to avoid significant impacts or where other measures are already being provided, then the NVMP does not require At Source if other measures will achieve the objectives.

78. On that approach, and given the current circumstances, NR's approach to the application of the NVMP is permissible (and I think correct). On that approach, the potential role of RD for section H is very limited. This is before one gets to the RP/BCR question.

79. At the BCR stage, the issue is one for the judgment of OCC informed by, but not dictated to, by Webtag. The context, the severity of the impacts and the scale of the benefits and to how many people are the crucial elements. If, as I think is the correct approach, the BCR of RD is to be assessed from the starting point of the implemented Partial Approval, the RD serves to mitigate open window noise from those who have noise insulation and reduces one house from 5db to less than 3db; whilst removing entitlement to noise insulation from any who have not yet had it installed."

Officer assessment

31. In coming to their conclusions on these applications, officers have taken into account all representations and advice received.

32. Following Queen's Counsel's Advice as stated above, the officers' assessment is summarised in the table below:

Queen's Counsel's Advice	Officer assessment
<p>The context</p> <ul style="list-style-type: none"> The NVMP does not require 'at source' if the other measures already provided will achieve the objectives (para 77) 	<p>The potential role for rail damping is in relation to residual noise after barriers and noise insulation have been installed.</p>
<p>The severity of the impacts</p> <ul style="list-style-type: none"> Significant residual noise impacts are 5dB or above (para 73) 	<p>The barriers and insulation together meet the requirements of the NVMP (in both route sections H and I-1) apart from in relation to one Noise Sensitive Receptor (NSR) where the residual noise impact is 5dB.</p>
<p>The scale of benefits</p> <ul style="list-style-type: none"> Rail damping may mitigate noise impacts by 2.5dB (para 4) 3dB difference is at the margin of perceptibility (para 73) The NVMP standards concern internal, not external noise levels (para 14c) 	<p>A 2.5dB difference is less than the level considered to be "significant" for residual noise impact purposes by the approved NVMP.</p> <p>Rail damping could only be relevant at the <u>one</u> NSR referred to above where the residual noise impact is 5dB.</p> <p>The approved NVMP does not require mitigation of noise to open areas or gardens.</p>
<p>How many people will benefit</p> <ul style="list-style-type: none"> For those who already have noise insulation, open window noise will be reduced At one house there will be noise reduction from 5db to less than 3db 	<p>Not relevant to this decision - the approved NVMP does not require mitigation of noise where windows are opened.</p> <p>The one NSR benefit will involve mitigation of a noise impact which is of itself at the limits of perceptibility.</p>

33. Local residents are of the view that there is an inescapable obligation on NR to provide rail damping. This arises from their interpretation of public inquiry documents, the NVMP and condition 19. It is a view underscored by verbal and written commitments about rail damping made by NR in the run-up to determination of the NSoAs in 2015 and 2016. Local people do not believe that the noise impacts of EWRP1 on their lives will have been adequately mitigated without the installation of rail damping. They believe that NR are renegeing on their responsibilities to mitigate; and are putting profit before the lives of local people. Detailed technical arguments about the methodologies and assumptions used in the assessment of reasonable practicability and benefits to costs have also been advanced by some. Overall, local residents are calling for the Council to take a strong stance against these applications, and for enforcement action to be taken against NR in view of the commencement of rail services prior to full discharge of the relevant planning conditions.

34. There can be no doubting residents' concerns about the adverse impacts of

operational noise and vibration; or their interpretation of condition 19 and the NVMP. The Council's approach to this has been to seek compliance with condition 2 – specifically for NR to demonstrate whether the provision of rail damping is reasonably practicable. The data and methodologies employed by NR in the NSoAs have been assessed by the original Independent Expert and by Arup; and Queen's Counsel's Advice has been received in respect of interpretation. Queen's Counsel has advised on the factors that the decision maker should take into account.

Officer conclusion on rail damping

35. Since summer 2015 when the NSoA for route section H was first approved, Councillors have pushed for exhaustive investigations on the reasonably practicable provision of rail damping. The position reached is that with the review of all the submitted material by external legal and technical experts, officers are able to accept, and to recommend, that the reasonably practicable test set by Councillors has now been met – that NR have demonstrated that it is not reasonably practicable to require rail damping.
36. Officers conclude that a reduction in residual noise which is of itself at the margins of perceptibility, occurring at one NSR, is of such limited benefit that, given the costs involved, it is not reasonably practicable to install rail damping in route sections H and I-1.
37. The recommendation is therefore that the NSoAs relating respectively to route sections H and I-1 be approved subject only to a condition specifying the documents that form part of the permission, excluding the previously imposed condition regarding rail damping.

Restrictions on the patterns of train services

38. Condition 3 (reproduced in paragraph 8 above) limits train movements to the number and pattern of movements used to predict operational noise and vibration as set out in the NVMP (paragraphs 1.8 to 1.10). This is known as the reasonable planning scenario. The reason for this condition was to limit the actual operation of services on the line to the pattern used in the prediction of operational noise and vibration and the design of any associated mitigation given that any changes could have different and possibly unacceptable operational outcomes which might require further mitigation.
39. At the time the condition was imposed by WAPC, officers advised that there was no legal basis for this condition because the deemed permission did not include any control over the number and pattern of services. This situation was unaffected by representations that the modelled pattern of services was unlikely to be adhered to.
40. Queen's Counsel has also advised that the NVMP does not require any assessments to address any future increases in service and that these potential changes do not need to be modelled (paragraph 84 of his Advice). Through the granting of the original permission, NR was given the right to increase services

without being in breach of condition 19 of the deemed planning permission, and NR does not need to seek further consent (paragraph 85).

41. In the view of officers therefore, since there is no legal basis for the imposition of this condition, it is not recommended.

Conclusion: the respective Noise Schemes of Assessment are considered to be robust and to have demonstrated that the required standards of noise mitigation set out in the Noise and Vibration Mitigation Policy will be achieved subject to the installation of the specified mitigation measures. The applications are recommended for approval subject to a condition that the development shall take place in accordance with the submitted details. The previous conditions relating to rail damping and limitations on the patterns of train services are not recommended.

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: 15/00956/CND; 15/03503/CND; 16/01858/CND; 16/01861/CND; 16/02507/CND; 16/02509/CND.

[Agenda for Planning Review Committee on Wednesday 5 October 2016, 6.00 pm | Oxford City Council](#)

[Agenda for West Area Planning Committee on Tuesday 13 September 2016, 6.00 pm | Oxford City Council](#)

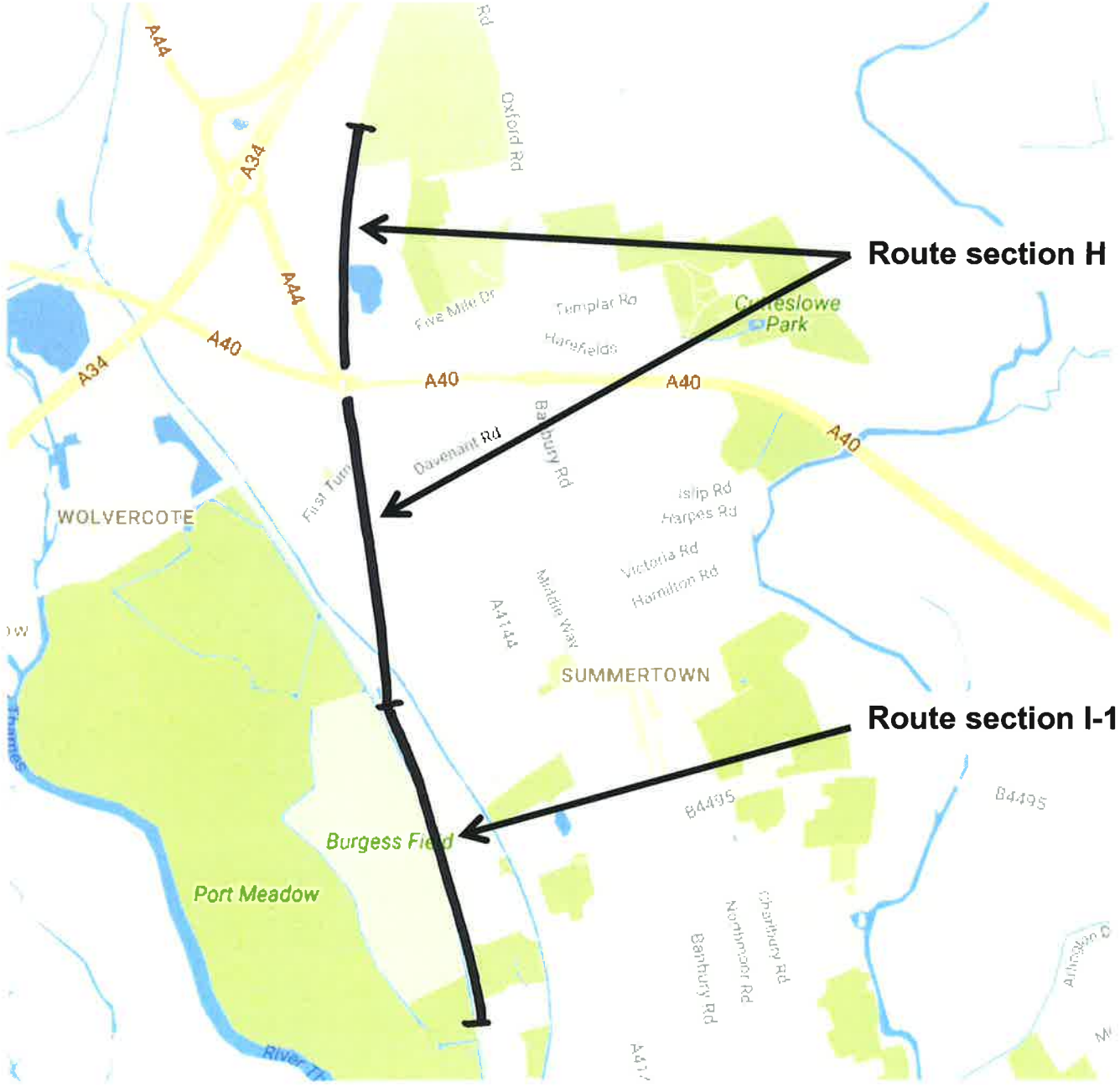
[Agenda for West Area Planning Committee on Tuesday 15 December 2015, 4.00 pm | Oxford City Council](#)

[Agenda for West Area Planning Committee on Tuesday 16 June 2015, 6.30 pm | Oxford City Council](#)

Contact Officer: Fiona Bartholomew
Extension: 2774
Date: 13th February 2016

APPENDIX 1

ROUTE SECTIONS H AND I-1



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REPRESENTATIONS IN REPOSE TO PUBLIC CONSULTATION

- We were given firm assurances that the impact of this development on our quality of life would be lessened by a number of mitigation measures including at source noise mitigation, restrictions on the number and speed of trains that would use the line, and monitoring of noise and vibration.
- In March 2015 at a meeting Network Rail made a clear commitment to use rail damping and assured everyone present that they had the funds available - they are now claiming that these funds are no longer in place.
- Network Rail now claims that the funds for these measures no longer exist. This is a case of putting profit before people. Network rail and its managers and other associated people stand to gain hugely both corporately and personally by saving money on the well-being health and quality of life of residents only to enhance contents of their wallets.
- We understand the need for new infrastructure but we believe that Network Rail has a moral responsibility and should be made to hold to those previous commitments.
- We implore the City Council to reinstate the noise and vibration monitoring and to insist on the best possible rail damping measures and enforce the restriction on the number and speed of train using the line especially at night as agreed in June 2015 at the West Area Planning Committee.
- At source mitigation of noise and vibration, monitoring, and restricting the numbers of trains are essential safeguards to the amenity of local residents.
- Network Rail should not be permitted to renege on previously agreed conditions, which led to the original application being granted.
- If the application is approved it sends a strong signal that the Council is not prepared to stand up for the interests and rights of their citizens against the overbearing and essentially devious tactics of large organisations trying to evade their public responsibilities.
- Promises about vegetation have been broken: reinstating trees and bushes would have been a good screen for those affected and would have helped with diesel pollution.
- This whole process is very upsetting: the rail companies are relying on people giving up. It has made me believe that I am not living in a truly democratic country where the views and rights of individuals and communities are important. Corporate voices hold sway. Nobody seems to have listened. The companies involved have done as they pleased.

- Children attending St Phillips and St James School will be affected if these mitigation measures are not installed. The learning environment will be badly affected. There are concerns for the well-being of pupils at the Wolvercote Primary School and for the physical structure of the school itself.
- There has been an increase in noise during the recent testing of trains. If the additional ground borne noise is due to an increase in vibration this is contrary to the assurances given throughout the planning process that vibration would be at worst the same as experienced with the older track. This brings into question the reliability of any of the modelling that was submitted.
- Mitigation should be based on the numbers of trains now forecast to be using this track and take account of future increases: the current mitigation is based on outdated train numbers and types. **The City Council needs to enforce the CRN Statutory Instrument.**
- Alternatively network rail should be applying for a variation to the TWA Order now that the capacity of the line has materially increased with enhanced outputs and mitigation that is woefully inadequate
- The trickle vent provided as part of the installation package is inadequate to provide ventilation to bedrooms effectively - this means that we have no noise mitigation unless rail dampers are provided
- Through the East West Rail Consortium the City Council would have known that the Environmental Statement and the predicted number of trains is out of date and materially different and that the effects of this could have significant environmental impact.
- Under the Habitats Regulations an Appropriate Assessment may need to be undertaken.
- It is important that as there has been a change from the core East-West rail project to an enhanced one, the additional effects are assessed.
- Building Castle Mill has already increased noise for residents with the reflection of sound from that building.
- If rail damping has to be retrofitted the cost will be much higher, it is a false economy to choose not to install rail damping at this stage.
- The long-term cost to hundreds of residence due to rail noise and locomotive noise from very large volumes of passenger and freight traffic running day and night is the potential loss of the enjoyment of their properties including loss of sleep at night plus interruption of daytime use of gardens and damage due to vibration.
- If Network Rail increases the number of predicted trains it will increase noise and vibration - the matter should be referred to the Secretary of State: it is not

for Network Rail or the City Council to allow any erosion of the protection for Oxford residents - if necessary the matter should go back to public inquiry.

- The Council should call a halt to all works on the project until Network Rail accepts the conditions already imposed upon them. It is incumbent on the Secretary of State and Oxford City Council to stand by the decisions they have already made and for Network Rail to accept them.
- Trap Ground allotment holders have also noticed the negative effects of the current works on biodiversity.
- What is the point of consultation and agreements with the Council if afterwards it is possible to ignore the whole process. This is yet another example of a large company trying to renege on agreements made in order to reduce cost at the expense of the welfare of local residents.
- Why should there be opposition to an objective method of recording the impact of the new resumed rail traffic? Scientific monitoring will provide good answers to subsequent questions
- There is reason to believe that the costs have been exaggerated by Network Rail and must be set up alongside the entire cost of this entire exercise to arrive at a balanced view
- Noise and vibration have a great impact upon emotional and physical health and therefore all available steps should be considered when assessing this application
- Network Rail should expect no special treatment should they ignore conditions attached to the grant of planning permission. A variety of sanctions are available and the local authority is able for example to seek an injunction to promote and protect the interests of inhabitants of the city
- This gives the appearance of extreme cynicism on part of Network Rail. Promise whatever you like in the initial stages and then when the public opposition has died down and all have become exhausted, change the rules of the game by claiming that what was agreed to initially is now unreasonable
- It is paramount that a high quality modern quiet railway is built and not something unfitting for the 21st century
- All residents support in principle the enhancement of transport services in this country but it would be an absolute travesty of fairness to allow for this to happen at the expense of the unfortunate few who lived by the track side and for the benefit of those few who happened to put themselves in position of responsibility and advantage in respect of this project. The company as a whole and the individuals involved in improving the decision ought to be prepared for their actions and choices to be subjected to detailed critical examination in the media

- If Network Rail is successful then the whole planning process has been a huge waste of taxpayers time and money
- An additional condition is required stating that the thresholds for noise and vibration which must not be exceeded should remain in force in perpetuity
- Whatever the Council's noise monitoring equipment shows, that it is likely that day and all night time noise threshold is exceeded at one or more locations.
- An additional condition is required stating that NR will, within three months, conduct noise monitoring of operating trains and if the threshold has been exceeded NR will discuss with the Council what further mitigation will be provided and NR will immediately impose a speed restriction on the line until such time as an effective solution is implemented
- Assumptions have been made about the speeds and times of trains with the sole purpose of bringing vibration predictions to just within the threshold which residents know to be false from previous experience of trains using the line
- There is evidence that the predictions underestimate future train services:
 - Oxford Parkway opened more Chiltern Railways passenger trains operated than used that was used in the predictions
 - more Chiltern Railways passenger trains will operate when the line becomes operational than provided for in the predictions;
 - Network Rail enhancements delivery plan dated September 2016 still predicts that much higher numbers of trains will use East West Rail than the mitigation is based on
- The train numbers in Transport and Works Act application should be binding on the applicant otherwise Network Rail might be tempted to under estimate future services to gain planning approval and then rely on its permitted development rights to increase capacity
- Only by monitoring noise levels experienced at residential and noise sensitive locations at height of 5 m above ground from operating trains will Network Rail predictions and the effectiveness of mitigation be verified. However at present only the effectiveness of the noise barriers themselves will be measured by comparing the noise from above the top of the barrier with the noise lower down. There are plenty of places along the line with no noise barrier where Network Rail could place noise monitoring equipment to measure the unmitigated noise and compare these with the noise levels at the same height where there are barriers.
- The actual noise experienced by residents will never be measured and the predictions in noise scheme of assessment and the environmental statement will not be verified
- Internationally recent events have shown an upsurge in popular discontent with large powerful organisations riding roughshod over small people who

want to be heard and understood rather than have their views and interests trampled. The Council must be tough with Network Rail and see that it delivers on the conditions placed upon it anything less this is unacceptable and leads to a justified lack of trust in the systems are set up to protect the public

- The government has confirmed that local planning authorities have broad powers to impose conditions and enforce where they consider that conditions have been breached. Oxford City Council should use its powers and uphold the rule of law by rejecting network rails applications.
- The benefit cost ratio for the entire project was considered at the public inquiry and included the cost of installation of the various mitigations offered. Network Rail is using a method where the benefit cost ratio is estimated for silent track only when it is applied as the last of the mitigations instead of sticking to the method laid down in the Transport and Works Act Order where it should have been applied as the first of the mitigation. In a project of this size the cost of SilentTrack is trivial.
- Network Rail's benefit cost ratio figures lack a clear methodology and appear to have been hastily compiled. They reveal a number of significant contradictions. There is no explanation for discrepancies: the change from 0.36 to 0.24 in route section H; and the figure of 0.57 in route section I/1 which is 2.4 times the value for section H. Network Rail is clearly trying to inflate the costs and understate the effectiveness of silence track. Its calculations are wholly unreliable.
- It is absolutely imperative that the future train numbers supplied by NR in the Noise and Vibration Schemes of Assessment are adhered to. The calculations of vibration in particular are critically dependent upon the speed, number and types of train (because the DVD is cumulative and therefore increases with the total number of trains) By seeking to increase the number of trains while not also considering its effects on the vibration and noise schemes of assessment is clear abuse of process
- Concerns that if Network Rail were to win an appeal it might impose costs on the Council is not a good reason to cave in to the bullying and devious behaviour of Network Rail. The Council should stand up for residents interests
- It is important that the impacts to which residents homes will be subjected in future is monitored. At the moment the noise impacts at residents homes are hypothetical yet it is on those figures alone that the required mitigation has been decided
- None of this would have been necessary if Network Rail had agreed to have trains going slowly through Oxford.
- It is not reasonable to bombard a local government office with more appeals, submissions and requests than can easily be managed with available resources. This is a recognised tactic among lawyers and should not be allowed to overturn the rulings of local government.

- Network Rail should not be allowed to use the railway while blatantly ignoring condition 19.
- The conditions that the Council would like to impose do not appear to meet the legal standards required of planning conditions. The Secretary of State has dealt us a very bad deal in saying we could determine the planning permission without adequate powers to insist on anything that does not meet the basic condition of just mitigating the noise by a certain amount.
- It is the council's legal obligation to take enforcement action where any developer including companies like Network Rail, has not complied with any condition attached to planning permission: And that failure to do so leaves the council open to complaint to the local government ombudsman
- Removing these conditions is a total disregard for democracy and we might as well not have a planning process

NR16

Network Rail response to
objections/representations
made in respect of
application 16/02507/CND

Submitted to Oxford City
Council 9 January 2017

A1.1 INTRODUCTION

As at 3 January 2017, approximately 112 consultation responses have been received through the Oxford City Council (OCC) online portal and these cover a range of concerns and comments. Section A1.2 provides a detailed response from Network Rail to a selection of the key issues raised. This is not intended to be a comprehensive response by Network Rail, since many of the other issues raised have already been addressed in the application or in other correspondence with OCC.

A1.2 SELECTED KEY ISSUE RESPONSES**Reversal of the SilentTrack ‘commitment’ of the TWAO and concerns over the resulting noise that could be experienced without the implementation of SilentTrack**

SilentTrack installation was not a condition of the Transport and Works Act Order (TWAO) but was a condition imposed by Oxford City Council (OCC) should the technology be deemed ‘reasonably practicable’ within Section H. SilentTrack (whether or not in combination with barriers) is unlikely to deliver more than a 3dbA Leq reduction in day or night time noise levels (and the reduction could be substantially less). This reduction needs to be considered in the light of the TWA Inspector’s view (shared by noise experts) that ‘changes in environmental noise levels of less than 2 to 3dB are not noticeable to most people’. Noise barriers and insulation are already being installed in Sections H and I/1 at a cost of around £3.5 million. These are the only methods that can deliver the substantial noise mitigation required by the Noise and Vibration Mitigation Policy (NVMP) where there is housing close to the track.

Interpretation of the noise mitigation hierarchy and the prioritisation of ‘at source’ mitigation, such as ‘SilentTrack’

Paragraph 2.2 of the NVMP notes that the ‘first preference will be to apply necessary noise control measures at source where this is reasonably practicable’. The NVMP does not require the installation of track based measures, even though these are ‘first preference’, if these would not be sufficient to mitigate significant noise impacts, which is the case in most of Sections H and I/1.

In Sections H and I/1, neither SilentTrack (nor any other rail dampers) alone can achieve the noise mitigation standards set out in the NVMP, without being installed in combination with extensive noise barriers and some noise insulation in the form of secondary or double glazing. The ‘noise mitigation hierarchy’ should be interpreted in a common sense and practical way and, in considering whether the installation of SilentTrack would be ‘reasonably practicable’, it is proper to consider the marginal additional costs and benefits (or ‘value for money’) of SilentTrack assuming that those other measures will need to be installed in any event.

NR believes that it is appropriate to apply the reasonably practicable test to all of the measures provided in combination, in order to properly confirm that mitigation is correctly focussed on the most cost effective mitigation package.

Concerns over Benefit Cost Ratio changes in Section H

The Appellant has submitted two statements to OCC containing evidence that the provision of rail dampeners in Section H is not 'reasonably practicable'. NR's originally published analysis, in the statement in support of the s73 applications to remove condition 2 of 15/03503/CND and 15/00956/CND, showed a Benefit Cost Ratio (BCR) of 0.35 in Section H, ie. a return of £3 for every £10 invested. In reviewing the BCR in light of the Arup Technical Note, NR found that the published numbers actually over-estimated the original assessment of the benefits of SilentTrack as a result of the refined Net Present Values (NPV). The BCR was therefore adjusted to take this into account to 0.2 within the Not Reasonably Practicable (NRP) supporting statement for application 16/02507/CND.

Concerns over the cost calculations used and the monetary value attached to the long term benefits to health and well-being experienced by local residents

The method used to assess the monetary valuation of noise impacts employed has been undertaken using the Department of Transport (DfT) standard economic appraisal method, in particular TAG Unit A3, December 2015, and the accompanying TAG Data Book Table A3.1 and the TAG Noise Workbook.

WebTAG is an accepted economic appraisal tool for placing a monetary value on the environmental effects, in this case, of reducing noise and the consequent effects on eg. disturbed sleep. It is the only way of comparing directly the financial costs and the economic benefits of a mitigation measure that only provides an environmental rather than financial return.

The WebTAG methodology allows for the consideration of local conditions in Oxford, through the use of the specific noise model outputs for Section H and I/1 to derive monetarised benefits and bespoke costing of the installation of SilentTrack in Sections H and I/1. These are the main determining components in deriving the costs and benefits of the installation of SilentTrack in Sections H and I/1.

The method used to assess the cost/benefit of SilentTrack utilises the standard economic appraisal tool available for this type of calculation and NR is not aware of any other reliable tools which are in common use for noise impact economic appraisals.

Concerns regarding the removal of a restriction on train movements and impacts upon Noise SoA modelling

The number of train movements specified by OCC as a limit has been derived from the reasonable planning scenario for East West Rail after Phase 2 as contained in the NVMP, imposed by the Secretary of State under Condition 19. This planning assumption was used in the noise and vibration SoA and formed the basis for determining mitigation in both the noise and vibration SoAs in line with the Secretary of State's decision.

The reasoning behind the imposition of the train movements condition was directly linked to the incorrect assumption that the purpose of the noise monitoring was to enable a comparison of actual residual noise levels in comparison with those predicted in the Environmental Statement (ES), which rely on the 'reasonable planning scenario.'

The intended purpose of the noise monitoring is to check the effectiveness of the noise mitigation installed in pursuance of the approved noise SoAs, so that any defects in construction or performance can be identified and rectified in a timely manner.

Neither the TWA Order nor the deemed planning permission granted by the Secretary of State contains any restriction on the total number of train movements.

Concerns over the current EWR Phase 1 Timetable and NSoA

The 'reasonable planning scenario' used for the NSoA for the period between 23.00 and 07.00 includes EWR Phase 2 and freight services. The timetable that will be in operation from 11 December 2016 between Oxford and Oxford Parkway allows for 10 passenger services each day during the 23.00 to 07.00 period, which is only one third of the 29 passenger and freight services assumed in the 'reasonable planning scenario'.

Noise and Health

The TWAO planning conditions do not require a specific Health Impact Assessment to be undertaken. However, the stringent standards which have been applied in the Noise and Vibration Mitigation Policy (NVMP) provide adequate protection against noise and take account of its potential effects on health. This approach was endorsed by the Secretary of State when the TWA Order was approved, in requiring the NVMP to be applied to the design and implementation of noise mitigation.

HS2

HS2 is not yet an approved scheme and no assessment has been undertaken of the likely train operations that may take place on any part of EWR (Oxford to Bletchley or Princes Risborough to Milton Keynes) to serve HS2 construction or operations. The future service levels accepted by the Inspector at the TWA Inquiry (and confirmed by the Secretary of State's decision to grant the Order) are seen as 'reasonable assumptions of likely future service frequencies' and therefore correctly form the basis for the consideration of the

NSoA by the Council. This does not include any potential train movements related to HS2 construction or operation.

Devegetation

Vegetation clearance was required in advance of the approved Scheme's main construction work to remove existing areas of trees and scrub, where these would impede construction. There are no specific requirements for landscaping or for replanting on this section of the Scheme. In addition, Network Rail guidance covering new construction states that no tree planting should be within 5m of the outside rail. Where feasible, some replacement trees are being planted, at the conclusion of construction.

Speed Restrictions

Objections have suggested that a speed limit for trains be implemented to reduce noise and vibration at properties along the route. This was a matter discussed at length at the TWA Inquiry and rejected by the Inspector and the Secretary of State as neither appropriate nor necessary.

If Network Rail were to restrict train speeds to well below the safe line speeds through Section H, this would result in passenger train operations along the route becoming unviable.

Frequency of Trains

The service levels used in the NSoA were discussed and agreed by the Inspector at the TWA Inquiry (and confirmed by the Secretary of State's decision to grant the Order). They continue to represent a 'reasonable assessment of likely future service frequencies' following the opening of East West Rail Phase 2 between Bicester and Bletchley etc, which was the basis on which the Noise and Vibration Mitigation Policy was devised. Unfortunately, if Network Rail were to restrict the frequency through Section H, this would result in train operations along the route becoming unviable.

Adequacy of Noise Baseline Surveys

The noise baseline survey has been designed carefully to provide sufficient noise data for the Noise Scheme of Assessment. Noise levels have been measured at selected locations that are representative of the noise environment in that area. So that noise levels at other locations can be established where necessary, the measured noise levels have been adjusted by taking into account the distance to the track and measured differences in noise environment between locations. This method provides a robust approach to establishing noise mitigation requirements, without the need to measure noise at each individual property in the area.

Noise and learning at Phillip and James School

Noise modelling has been carried out at all noise sensitive locations including the school to determine the optimal length and height of the noise barriers in, as part of the assessment of the mitigation required under the Noise and Vibration Mitigation Policy. In the case of the School, a noise impact of 2 dB was modelled without any mitigation. Following the procedure set out in the Policy noise barriers are provided when noise impacts of greater than 5 dB are predicted, so that the modelled noise at the school is not sufficiently high to justify noise mitigation.

It is noted that there is a barrier between part of the school and the railway that is installed to provide noise mitigation for the residential properties on Navigation Way. This will, because of its close proximity, attenuate noise both from the existing railway and from EWR trains to parts of the school building and playground with predicted reductions in train noise of 7 dB at the building based on a receptor height of 6 m. To put this reduction into context, a change of 3 dB is considered to be the smallest change in noise levels which is generally noticeable with changes of 5 dB being clearly noticeable and changes of 10 dB representing a halving of sound. Therefore, this barrier will provide a noticeable reduction in noise levels for parts of the school, and higher reductions would be predicted to occur at lower receptor heights.

Noise Monitoring

The Noise and Vibration Mitigation Policy defines the times at which measurements will be undertaken (6 months and 18 months after opening). By that time, sufficient passenger and freight trains of the right types will be running to enable accurate measurements to be made. Potential future increases in passenger and freight service frequencies (and train lengths) will be taken into account. These calculations will be based on the future service levels which are set out in the Noise and Vibration Mitigation Policy. These future service levels were discussed and agreed by the Inspector at the TWA Inquiry. They continue to represent a 'reasonable assessment of likely future service frequencies' following the opening of East West Rail Phase 2 between Bicester and Bletchley etc., which was the basis on which the Noise Policy was devised.

Vibration Levels and Property Damage

Some residents maintain that they experience vibration levels which they believe to be unusually high as a result of their particular building type or location. The vibration prediction methodology that was used is based on measurements of trains under appropriate geological conditions at an agreed local site, and this methodology has been reviewed extensively and accepted by Oxford City Council in relation to Section H. Even after applying the "reasonable worst case" assumption, there are no dwellings where vibration will exceed the thresholds which are specified in the planning condition, which are designed to ensure a good standard of protection against disturbance as a result of vibration. By taking this precautionary approach it has not been necessary to carry out measurements in individual properties. It should be noted that the vibration magnitudes are sufficiently low that there is no probability of vibration damage as a result of the railway operations.

Vibration Monitoring

The s73 application for Section H Plain Line (16/01410/VAR) included the basis of an undertaking by Network Rail to undertake one round of vibration monitoring at three residential properties of different structural types, close to the railway. The detail of this undertaking is currently being agreed with OCC.

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REPRESENTATIONS IN REPONSE TO PUBLIC CONSULTATION

- These planning conditions were put in place in order to protect the rights of local residents and they must not be changed without proper scrutiny.
- Noise from railway operations is considerable and indoor vibrations associated with freight trains are extreme. In the current assessment no such data or calculations had been provided - it is simply stated without justification that levels of vibration will not cause structural damage to buildings
- Residents experiences of extreme vibration do not concur with the desk based assessments made by consulting engineers
- On silent track the methods by which the benefits of being calculated are not given. Without those calculations it is impossible to judge whether the calculations are credible; indeed without proper measurements of the levels of noise and vibration it is difficult to see that any cost benefit ratio could be calculated with confidence
- Even if SilentTrack is found to be not reasonably practical on grounds of cost the Secretary of State makes it clear that an equally effective substitute must be offered in mitigation while many noise reduction measures have been suggested, so far no alternative measures to mitigate vibration been proposed
- There should be a proper program of monitoring of noise and vibration including monitoring inside at all floor levels within a sample of affected houses
- The benefit to cost ratios must be presented for the purpose scrutiny
- Alternative vibration mitigation measures must be proposed if available. If no alternative vibration mitigation measures are available freight train speeds should be restricted
- The school as well as many properties on Waterside are very close to the railway. Noise and vibration are already a serious issue and, unless the Council is firm with Network Rail, the situation will become intolerable for hundreds of children and thousands of local residents.
- The noise and vibration from the trains especially freight trains at night have been very disturbing and the fact that the frequency is going to be increased and silent track is now going to be reneged on is a really alarming development

- The effect on children who attend St Philip in St James School, the majority of whom live near the railway track, and will be affected during school hours and at home is a real concern
- The noise and vibration monitoring systems should be installed before any new trains run on the new track. The track is very close to many home and community facilities including schools and play areas. The original conditions should be adhered to.
- The original application was supported only on the basis of the conditions being fulfilled. Mitigation measures are small but essential to maintaining normal family life in close proximity to the dramatically increased use of the line forecast over the next 10 years
- The diesel fume pollution if the number of trains is allowed to rise is also of huge concern both for the residents and because this track runs alongside an area of natural beauty
- Monitoring of noise and vibration levels should start now so that we have a clear benchmark to work from. The effects of increased well traffic on lines running through such a heavily populated area needs to be studied properly and mitigated.
- Seeking to make variations to the original planning consents will have a negative impact on Waterside and adjoining neighbourhoods. Seeking such variations at this late stage is underhanded and contemptuous of Network Rail's much-publicised concern for public opinion
- The well-being of children should be a much greater priority for our Council rather than facilitating Network Rail to cut corners.
- This planning application is all about maximizing profit with no consideration to the significant impact on local residents and the school.
- The quality of life and for the local community will be severely impacted on if this application continues
- Is there any risk of train collision near the school where the two railways become only one?
- What will be the noise and vibration impact on birds, protected wildlife, and birds migration Port Meadow?
- The real impact study is necessary and action has to be taken before any increase of circulation on the railway.
- To allow this application would set an appalling precedent

- It makes a total nonsense of the planning application procedure if the builder, developer or in this case a company decide to renege on former agreements in order to further their own interests. Stand up and be counted. Don't be rolled over. There are thousands of residents who will be affected if the original planning conditions are not met.
- The noise of trains reflects off the houses on the opposite side of the canal and bounces back loudly on houses on the railway side of the estate. Network Rail has also cut down all the trees along the railway next to the estate which would have partially screened noise, and have not built the earlier proposed sound barrier. Loss of these trees is visually unpleasant for those living next to the embankment and indeed to all on the estate.
- Based on their past behaviour I have no confidence that Network Rail will honour their word whatever they might have initially agreed to. It is simply not acceptable for Network Rail to secure approval on one basis and then to propose to wind back all the undertakings given on the grounds that this now all looks just too expensive. It would be unconscionable for the public authorities to acquiesce to collapse in planning standards in this way.
- We hear the trains from my house on Burgess Mead and I am often woken by them in the early hours. The prospect of more trains regularly travelling this week has been daunting but we were comforted by the understanding that they would be on silent track and that there would be vibration buffers and ongoing noise monitoring. I object to this application and demand that these conditions be fulfilled.
- The proposal is completely wrong democratically. There is so much for you to be spending your time on it should not be allowed to apply to change a decision already made please have the strength to ensure you are not now pressured into changing the decision
- It will not be possible to take a peaceful walk in Port Meadow or Aristotle playground because people will end up hearing now freight trains every minute
- The best mitigation would be achieved by limiting the speed in the area controlled by the planning application to a maximum of 50 mi./h this is within Network Rail control and would cost them nothing
- There is a great risk of subsidence of our properties close to the line
- We object to Network Rail efforts to compromise the planning process in which many local residents participated and accepted in good faith the mitigation measures that resulted. If accepted, this application by Network Rail will damage any faith we have in planning processes
- With HS2 on the horizon and further strengthening of the rail system being planned, it is important from both local and national perspective that Network Rail current bullying tactics are not allowed to succeed

- I was given an assurance that the impact of this development on our quality-of-life would be lessened by a number of measures including noise mitigation, Restrictions on the number and speed of train that would use the line, and monitoring vibration.
- In March 2015 at a meeting organized by city councillors Network Rail made a clear commit commitment to use SilentTrack for this line. They reassured local people present that they had the funds available
- While accepting that the infrastructure of the country needs to evolve in this case profit is being put before people.
- If the removal of restrictions on the number of trains running occurs this could result in excessive use of the line both during the day and throughout the night and this will affect the modelling of the projected impact of noise and vibration.
- With respect to silence track Network Rail benefit to cost ratio figures lack a clear methodology and appear to have been hastily compiled revealing number of significant contradictions. Route section H has changed from 0.36 to 0.24 without explanation and there are more glaring discrepancies in section I/1.
- Predictive train numbers set out in the noise and vibration mitigation policy were under representing the situation. Network Rail now plans to run more freight and passenger services on this line.
- There is evidence that it will be highly likely that the thresholds for noise and vibration will be exceeded. The modelling of future operational noise and vibration relied heavily on assumptions - these need to be checked by monitoring.
- This application should be rejected as it is clear abuse of process and a waste of taxpayers' money.
- The Secretary of State insisted on the installation of SilentTrack.
- On the number of trains and the noise level were previously set and agreed by Network Rail to limit the impact on the local environment in densely populated urban area.
- The time to propose that the noise reduction and vibration damping measures were unreasonable and unnecessary would have been at the time of the original application. What is unreasonable and unnecessary is for a project of this size and importance to have been started when there were such fundamental issues about its viability.
- We live on Waterside and our house already shakes when freight trains pass and the trains are already very loud. We do not have our windows open at the front of our home because the noise from the trains wakes up our children. It

is very disappointing to see that Network Rail having gained permission to make changes to the rail system with the important restriction on the number of trains and the requirement to use silent track are now trying to get out of their responsibilities.

- I live on Plater Drive that backs onto the train line. It is very noisy during the night and my house shakes horribly as the heavy freight trains go through both of which disturb my sleep terribly. The issue is becoming worse and worse.
- The levels of noise and diesel pollution under the proposed amendments are likely to cause great harm to the primary school children at St Philip and St James school. In addition the increased noise and pollution levels are likely to adversely affect the local ecology of the area - this is a vital resource in terms of the local area and the local community. The likely adverse effect of the likely pollution cannot be overstated particularly in the light of the increased traffic levels on the A34
- Please do not allow previously informed decision-making protecting the public to be overtaken by the commercial interests of Network Rail.
- If Network Rail is successful then the whole planning process has been a huge waste of taxpayers time and money
- An additional condition is required stating that the thresholds for noise and vibration which must not be exceeded should remain in force in perpetuity.
- An additional condition is required stating that NR will, within three months, conduct noise monitoring of operating trains and if the threshold has been exceeded NR will discuss with the Council what further mitigation will be provided and NR will immediately impose a speed restriction on the line until such time as an effective solution is implemented
- Assumptions have been made about the speeds and times of trains with the sole purpose of bringing vibration predictions to just within the threshold which residents know to be false from previous experience of trains using the line
- There is evidence that the predictions underestimate future train services:
 - Oxford Parkway opened more Chiltern Railways passenger trains operated than used that was used in the predictions
 - more Chiltern Railways passenger trains will operate when the line becomes operational than provided for in the predictions;
 - Network Rail enhancements delivery plan dated September 2016 still predicts that much higher numbers of trains will use East West Rail than the mitigation is based on
- The train numbers in Transport and Works Act application should be binding on the applicant otherwise Network Rail might be tempted to under estimate future services to gain planning approval and then rely on its permitted development rights to increase capacity

- It is essential for the well-being of waterside residents and pollution levels affecting the school that sensible measures are implemented to restrict the number and speed of passenger and freight movements particularly at night. The speed of freight traffic overnight already causes extreme vibrations in the top floor of our property. I see no legitimate reason why freight traffic should not be restricted to a sensible, less destructive and disturbing speed particularly at night.
- Network Rail obtained planning permission based on constraints relating to the use of silent track and also on traffic following volumes. Allowing them to renege on this is a precedent that should not be allowed. The council needs to insist that vibration and noise monitoring is installed before any new trains run, and to adhere to the requirements silent track, and to restrict the number of passenger and freight train movements.
- If the Council backs down then where does this leave planning processes? Can we all just ignore any constraints the Council places on development plans we might submit once we have obtained approval?
- It is vital for both fairness and to maintain the credibility of planning in Oxford that the original conditions are held to
- This isn't only about the health and well being of Oxford residents present and future but also about the impact on Port Meadow its tranquility and it's wildlife. And about whether planning conditions mean what they say or can simply be ignored by determined developers.
- The benefit cost ratio for the entire project was considered at the public inquiry and included the cost of installation of the various mitigations offered. Network Rail is using a method where the benefit cost ratio is estimated for silent track only when it is applied as the last of the mitigations instead of sticking to the method laid down in the Transport and Works Act Order where it should have been applied as the first of the mitigation. In a project of this size the cost of SilentTrack is trivial.
- It is absolutely imperative that the future train numbers supplied by NR in the Noise and Vibration Schemes of Assessment are adhered to. The calculations of vibration in particular are critically dependent upon the speed, number and types of train (because the DVD is cumulative and therefore increases with the total number of trains) By seeking to increase the number of trains while not also considering its effects on the vibration and noise schemes of assessment is clear abuse of process
- It is important that the impacts to which residents homes will be subjected in future is monitored. At the moment the noise impacts at residents homes are hypothetical yet it is on those figures alone that the required mitigation has been decided.

- The City Council seems unwilling to support residents in holding Network Rail to account for their commitments and to uphold the interests of hundreds of residents.
- Concerns that if Network Rail were to win an appeal it might impose costs on the Council is not a good reason to cave in to the bullying and devious behaviour of Network Rail. The Council should stand up for residents interests
- Hundreds of residents live within a few dozen metres of the track and increasing train numbers to some unspecified but clearly high level will have a stronger adverse effect on both noise and air pollution in the immediate area. This is particularly concerning at night as even the low number of trains currently running is sufficient to cause substantial vibration and noise.
- This proposal would, in essence, allow motorway levels of traffic immediately beside dozens of houses.
- Given that Network Rail have presumably known projected traffic volumes since before the inception of these works I find it highly dishonest that they are attempting to back out of their commitments at this late stage.
- Councillors must clearly understand that this is a pre-planned ploy by Network Rail and a corrupt and cynical attempt to deceive them the planning authorities and the local residents.
- Network Rail has been obstructive and obfuscating me in the process wasting considerable time and money. There are no good reasons for the request to lift these very reasonable conditions which were put in place after long process of very thorough consultation. The justifications provided by Network Rail are entirely insufficient. Its new benefit cost ratio is entirely unexplained.
- Network Rail has consistently underestimated traffic levels in order to avoid residents objections
- Again NR is trying to avoid the use of silent track as it is desperate to prevent setting a precedent for the rest of the country despite its own preference to mitigation at source and the Secretary of State's insistence on its use
- Without traffic caps an unlimited number of freight trains can run through Oxford regardless of their age condition size pollution emissions maintenance weight or nuisance. The traffic caps should be maintained.
- The conditions that the Council would like to impose do not appear to meet the legal standards required of planning conditions. The Secretary of State has dealt us a very bad deal in saying we could determine the planning permission without adequate powers to insist on anything that does not meet the basic condition of just mitigating the noise by a certain amount.
- Many residents were not convinced by Network Rail's modelling efforts. The models were theoretical, not reflecting the reality. The models should be

tested against reality. Disposing of this absolute maximum annihilates the crucial modelling assumption and again renders the whole exercise void.

- Instead of being a responsible custodian of the railway Network Rail has focused most energy and resources on battling local residents in endless attempts to trim costs.
- Oxford City Council must show the courage to resist this latest attempt to override the planning system and stand up for the interests of Oxford residents.
- There has been huge residential development alongside the railway in the last 20 years. Silent track is approved an inexpensive way of reducing noise at source and therefore much more effective than localized reductions by way of double glazing
- We are not next to the track but in the second floor apartment 50m away where no sound insulation has been offered. The sound from the trains travels through the air and affects our second-floor bedrooms. The importance of the reduction of noise at source is therefore important.
- Please stand firm on our behalf. We appreciate the benefits and improved infrastructure could bring to Oxford. All we ask is that Network Rail adheres to the original commitments to those of us profoundly affected by this development.
- It is nonsensical for Network Rail to refuse to measure actual noise and vibration particularly since the theoretical modelling has proved to be so inconsistent.
- It is incumbent on the Secretary of State and Oxford City Council to stand by the decisions they have already made and for Network Rail to accept them.
- The large increase in the number of train movements (passenger and freight) day and night that will come with East West Rail Phase 2 and HS2 construction are certain to be far more than Network Rail is currently predicting. It is imperative that further noise monitoring is carried out

NR17

Network Rail response to
objections/representations
made in respect of
application 16/02509/CND

Submitted to Oxford City
Council 9 January 2017

A1.1 INTRODUCTION

As at 3 January 2017, approximately 164 consultation responses have been received through the Oxford City Council (OCC) online portal and these cover a range of concerns and comments. Section A1.2 provides a detailed response from Network Rail to a selection of the key issues raised. This is not intended to be a comprehensive response by Network Rail, since many of the other issues raised have already been addressed in the application or in other correspondence with OCC.

A1.2 SELECTED KEY ISSUE RESPONSES

Reversal of the SilentTrack ‘commitment’ of the TWAO and concerns over the resulting noise that could be experienced without the implementation of SilentTrack

SilentTrack installation was not a condition of the Transport and Works Act Order (TWAO) but was a condition imposed by Oxford City Council (OCC) should the technology be deemed ‘reasonably practicable’ within Section I/1. SilentTrack (whether or not in combination with barriers) is unlikely to deliver more than a 3dbA Leq reduction in day or night time noise levels (and the reduction could be substantially less). This reduction needs to be considered in the light of the TWA Inspector’s view (shared by noise experts) that ‘changes in environmental noise levels of less than 2 to 3dB are not noticeable to most people’. Noise barriers and insulation are already being installed in Sections H and I/1 at a cost of around £3.5 million. These are the only methods that can deliver the substantial noise mitigation required by the Noise and Vibration Mitigation Policy (NVMP) where there is housing close to the track.

Interpretation of the noise mitigation hierarchy and the prioritisation of ‘at source’ mitigation, such as ‘SilentTrack’

Paragraph 2.2 of the NVMP notes that the ‘first preference will be to apply necessary noise control measures at source where this is reasonably practicable’. The NVMP does not require the installation of track based measures, even though these are ‘first preference’, if these would not be sufficient to mitigate significant noise impacts, which is the case in most of Sections H and I/1.

In Sections H and I/1, neither SilentTrack (nor any other rail dampers) alone can achieve the noise mitigation standards set out in the NVMP, without being installed in combination with extensive noise barriers and some noise insulation in the form of secondary or double glazing. The ‘noise mitigation hierarchy’ should be interpreted in a common sense and practical way and, in considering whether the installation of SilentTrack would be ‘reasonably practicable’, it is proper to consider the marginal additional costs and benefits

(or 'value for money') of SilentTrack assuming that those other measures will need to be installed in any event.

NR believes that it is appropriate to apply the reasonably practicable test to all of the measures provided in combination, in order to properly confirm that mitigation is correctly focussed on the most cost effective mitigation package.

Concerns over the cost calculations used and the monetary value attached to the long term benefits to health and well-being experienced by local residents

The method used to assess the monetary valuation of noise impacts employed has been undertaken using the Department of Transport (DfT) standard economic appraisal method, in particular TAG Unit A3, December 2015, and the accompanying TAG Data Book Table A3.1 and the TAG Noise Workbook.

WebTAG is an accepted economic appraisal tool for placing a monetary value on the environmental effects, in this case, of reducing noise and the consequent effects on eg. disturbed sleep. It is the only way of comparing directly the financial costs and the economic benefits of a mitigation measure that only provides an environmental rather than financial return.

The WebTAG methodology allows for the consideration of local conditions in Oxford, through the use of the specific noise model outputs for Section H and I/1 to derive monetarised benefits and bespoke costing of the installation of SilentTrack in Sections H and I/1. These are the main determining components in deriving the costs and benefits of the installation of SilentTrack in Sections H and I/1.

The method used to assess the cost/benefit of SilentTrack utilises the standard economic appraisal tool available for this type of calculation and NR is not aware of any other reliable tools which are in common use for noise impact economic appraisals.

Concerns regarding the removal of a restriction on train movements and impacts upon Noise SoA modelling

The number of train movements specified by OCC as a limit has been derived from the reasonable planning scenario for East West Rail after Phase 2 as contained in the NVMP, imposed by the Secretary of State under Condition 19. This planning assumption was used in the noise and vibration SoA and formed the basis for determining mitigation in both the noise and vibration SoAs in line with the Secretary of State's decision.

The reasoning behind the imposition of the train movements condition was directly linked to the incorrect assumption that the purpose of the noise monitoring was to enable a comparison of actual residual noise levels in comparison with those predicted in the Environmental Statement (ES), which rely on the 'reasonable planning scenario.'

The intended purpose of the noise monitoring is to check the effectiveness of the noise mitigation installed in pursuance of the approved noise SoAs, so that any defects in construction or performance can be identified and rectified in a timely manner.

Neither the TWA Order nor the deemed planning permission granted by the Secretary of State contains any restriction on the total number of train movements.

Concerns over the current EWR Phase 1 Timetable and NSoA

The 'reasonable planning scenario' used for the NSoA for the period between 23.00 and 07.00 includes EWR Phase 2 and freight services. The timetable that will be in operation from 11 December 2016 between Oxford and Oxford Parkway allows for 10 passenger services each day during the 23.00 to 07.00 period, which is only one third of the 29 passenger and freight services assumed in the 'reasonable planning scenario'.

Noise and Health

The TWAO planning conditions do not require a specific Health Impact Assessment to be undertaken. However, the stringent standards which have been applied in the Noise and Vibration Mitigation Policy (NVMP) provide adequate protection against noise and take account of its potential effects on health. This approach was endorsed by the Secretary of State when the TWA Order was approved, in requiring the NVMP to be applied to the design and implementation of noise mitigation.

HS2

HS2 is not yet an approved scheme and no assessment has been undertaken of the likely train operations that may take place on any part of EWR (Oxford to Bletchley or Princes Risborough to Milton Keynes) to serve HS2 construction or operations. The future service levels accepted by the Inspector at the TWA Inquiry (and confirmed by the Secretary of State's decision to grant the Order) are seen as 'reasonable assumptions of likely future service frequencies' and therefore correctly form the basis for the consideration of the NSoA by the Council. This does not include any potential train movements related to HS2 construction or operation.

Devegetation

Vegetation clearance was required in advance of the approved Scheme's main construction work to remove existing areas of trees and scrub, where these would impede construction. There are no specific requirements for landscaping or for replanting on this section of the Scheme. In addition, Network Rail guidance covering new construction states that no tree planting should be within 5m of the outside rail. Where feasible, some replacement trees are being planted, at the conclusion of construction.

Speed Restrictions

Objections have suggested that a speed limit for trains be implemented to reduce noise and vibration at properties along the route. This was a matter discussed at length at the TWA Inquiry and rejected by the Inspector and the Secretary of State as neither appropriate nor necessary.

If Network Rail were to restrict train speeds to well below the safe line speeds through Section I/1, this would result in passenger train operations along the route becoming unviable.

Frequency of Trains

The service levels used in the NSoA were discussed and agreed by the Inspector at the TWA Inquiry (and confirmed by the Secretary of State's decision to grant the Order). They continue to represent a 'reasonable assessment of likely future service frequencies' following the opening of East West Rail Phase 2 between Bicester and Bletchley etc, which was the basis on which the Noise and Vibration Mitigation Policy was devised. Unfortunately, if Network Rail were to restrict the frequency through Section I/1, this would result in train operations along the route becoming unviable.

Adequacy of Noise Baseline Surveys

The noise baseline survey has been designed carefully to provide sufficient noise data for the Noise Scheme of Assessment. Noise levels have been measured at selected locations that are representative of the noise environment in that area. So that noise levels at other locations can be established where necessary, the measured noise levels have been adjusted by taking into account the distance to the track and measured differences in noise environment between locations. This method provides a robust approach to establishing noise mitigation requirements, without the need to measure noise at each individual property in the area.

Noise and learning at SS Phillip and James' Primary School

Noise modelling has been carried out at all noise sensitive locations including the school to determine the optimal length and height of the noise barriers in, as part of the assessment of the mitigation required under the Noise and Vibration Mitigation Policy. In the case of the School, a noise impact of 2 dB was modelled without any mitigation. Following the procedure set out in the Policy noise barriers are provided when noise impacts of greater than 5 dB are predicted, so that the modelled noise at the school is not sufficiently high to justify noise mitigation.

It is noted that there is a barrier between part of the school and the railway that is installed to provide noise mitigation for the residential properties on Navigation Way. This will, because of its close proximity, attenuate noise both

from the existing railway and from EWR trains to parts of the school building and playground with predicted reductions in train noise of 7 dB at the building based on a receptor height of 6 m. To put this reduction into context, a change of 3 dB is considered to be the smallest change in noise levels which is generally noticeable with changes of 5 dB being clearly noticeable and changes of 10 dB representing a halving of sound. Therefore, this barrier will provide a noticeable reduction in noise levels for parts of the school, and higher reductions would be predicted to occur at lower receptor heights.

Noise Monitoring

The Noise and Vibration Mitigation Policy defines the times at which measurements will be undertaken (6 months and 18 months after opening). By that time, sufficient passenger and freight trains of the right types will be running to enable accurate measurements to be made. Potential future increases in passenger and freight service frequencies (and train lengths) will be taken into account. These calculations will be based on the future service levels which are set out in the Noise and Vibration Mitigation Policy. These future service levels were discussed and agreed by the Inspector at the TWA Inquiry. They continue to represent a 'reasonable assessment of likely future service frequencies' following the opening of East West Rail Phase 2 between Bicester and Bletchley etc., which was the basis on which the Noise Policy was devised.

Vibration Levels and Property Damage

Some residents maintain that they experience vibration levels which they believe to be unusually high as a result of their particular building type or location. The vibration prediction methodology that was used is based on measurements of trains under appropriate geological conditions at an agreed local site, and this methodology has been reviewed extensively and accepted by Oxford City Council in relation to Section I/1. Even after applying the "reasonable worst case" assumption, there are no dwellings where vibration will exceed the thresholds which are specified in the planning condition, which are designed to ensure a good standard of protection against disturbance as a result of vibration. By taking this precautionary approach it has not been necessary to carry out measurements in individual properties. It should be noted that the vibration magnitudes are sufficiently low that there is no probability of vibration damage as a result of the railway operations.

Vibration Monitoring

The s73 application for Section I/1 Vibration Monitoring (16/01412/VAR) was approved by OCC at Planning Review Committee on 5 October 2016 and it was agreed that no vibration monitoring is required to be undertaken within Section I/1. It should be noted that within Section H one round of vibration monitoring at three residential properties of different structural types, close to the railway will be undertaken. The monitoring will identify the vibration arising from EWR trains at the 'worst case' locations, which are all in Section H. The detail of this undertaking is currently being agreed with OCC.

19. Operational noise and vibration monitoring and mitigation

1. Operational noise and vibration monitoring and mitigation shall be carried out in accordance with the Noise and Vibration Mitigation Policy, January 2011 (Inquiry document CD/1.29/2.1, referred to in this condition as “the Policy”) and this condition. In the event of any conflict between the two, this condition shall prevail.

2. Development shall not commence within each Individual Section, until a detailed scheme of assessment of predicted noise impacts during operation of Phase 1 and 2A of the railway works, predicted vibration effects of the railway with Phases 1, 2A and 2B and details of proposed monitoring and mitigation measures, has been submitted to and approved in writing by the local planning authority.

3. The schemes of assessment of the predicted noise impacts of Phase 1 and 2A and of Phase 2B on the Individual Section or Sections that abut Wendlebury Gate Stables shall also identify measures that should be taken to ensure, insofar as reasonably practicable, that the noise caused by individual passing trains, using the railway, does not significantly impede voice communication over a distance of 30 metres within either the “large riding school” or the “small riding school” at those Stables, or within the paddock opposite Bramlow. For direct voice communications (i.e. without electro- acoustic assistance), the term “not significantly impede” shall be taken to mean that the speech intelligibility shall be at least “fair” at an increased (i.e. “loud”) vocal effort as defined in BS EN ISO 9921:2003 Ergonomics Assessment of Speech Communications. The assessment method used shall be the Speech Interference Level as described in Annex E to that Standard. The assessment shall be based on a native female speaker facing the rider under instruction and the standard to be achieved will be for alert situations where short known words are used and the wind speed is less than 5 metres per second. A correction factor of -5dB shall be used to convert the standard for male voices to female voices. If personal communications or sound reinforcement systems are proposed, the assessment methodology shall be subject to the approval of the independent expert appointed in accordance with Condition 19.9. This part of the condition shall not apply if, at the time of assessment, the Stables are no longer a licensed riding establishment under the Riding Establishments Act 1964.

4. The schemes of assessment of the predicted noise impacts of Phase 1 and 2A and of Phase 2B on the Individual Section or Sections that abut 45 Lakeside shall also identify measures that shall be taken to ensure that the noise caused by passing trains in the Studio at 45, Lakeside does not exceed 35dB $L_{Aeq, 30 \text{ min}}$ and 55dB $LA_{1, 30 \text{ min}}$, the standards to be met by music teaching rooms as defined in Building Bulletin 93, Acoustic Design of Schools (Table 1.1).

5. Where vibration mitigation measures required for Phase 2B can be installed cost-effectively during the Phase 1 and 2A works, this shall be done. All mitigation measures, including those prescribed in the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996, required for Phase 1 and 2A shall be installed as soon as possible after commencement of the works and no later than the date on which a passenger rail service is resumed on that section of railway.

6. Any monitoring of noise and vibration shall be undertaken in accordance with the approved scheme of assessment and the Policy.

7. Before the commencement of the laying of the second track between the MoD Depot at Bicester and Islip, a detailed scheme of assessment of the predicted noise impacts arising from the works and from the additional services assessed as likely to operate under Phase 2B in the Environmental Statement and details of proposed mitigation measures, which achieve the standards for noise and vibration attenuation set out in the Policy, shall be submitted to and approved in writing by the local planning authority.

8. Any vibration mitigation measures not already installed during the Phase 1 and 2A works necessary for Phase 2B shall be installed during the Phase 2B works. All mitigation measures, including those prescribed in the Noise Insulation Regulations (Railways and Other Guided Transport Systems) 1996, required for Phase 2B shall be undertaken as soon as possible after commencement of the works and completed no later than the date on which the second track is brought into use.

9. The submitted schemes of assessment shall show how the standards of noise mitigation set out in the Policy will be achieved. Supporting calculations, or printouts of inputs and outputs from recognised computer software, shall be provided. Each scheme shall be accompanied by a report, prepared by an independent expert previously approved in writing by the local planning authority, on the robustness of the noise-related elements of the scheme of assessment. Noise mitigation measures shall be permanently installed as approved.

10. The submitted schemes of assessment shall show how the standards of vibration mitigation set out in the Policy will be achieved. Supporting calculations or empirical data, or a combination of the two, shall be provided. Each scheme shall be accompanied by a report, prepared by an independent expert previously approved in writing by the local planning authority, on the robustness of the vibration-related elements of the scheme of assessment. Vibration mitigation measures shall be permanently installed as approved.

11. The submitted schemes of assessment shall include a list of properties assessed and the results of the assessment at each. By the times that the mitigation measures are due to be brought into use, notice shall be served on the local planning authority of the mitigation measures that have been installed for each property assessed.

12. The situation may arise in which Chiltern finds “not reasonably practicable” the provision of mitigation measures that otherwise would be required by the Policy. In such circumstances, the mitigation measure or an equally effective substitute previously approved in writing by the local planning authority shall be installed in the timescale set out in item 1.10 of the Policy, unless the local planning authority has confirmed, in writing, its agreement that the mitigation in question is not reasonably practicable and that there is no suitable substitute.

13. Where noise barriers are promoted in an approved scheme of assessment, they shall be installed only once the local planning authority has given written approval of their size, appearance and location. Noise barriers shall be maintained in their approved form and may be removed only with the written approval of the local planning authority.

14. Development shall be in accordance with the approved schemes and this condition.

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

NOISE AND VIBRATION MITIGATION POLICY



**THE CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS)
ORDER**

TRANSPORT AND WORKS ACT 1992



Chiltern Railways

JANUARY 2011

SUMMARY OF THE NOISE AND VIBRATION POLICY

The Noise and Vibration Policy has been adopted by Chiltern Railways to ensure that mitigation of noise and vibration from trains using the railway authorised by the Chiltern Railways (Bicester to Oxford Improvements) Order is provided on a fair basis for all occupiers and landowners along the route between Bicester and Oxford.

The Policy has been based on extensive research and modelling and offers a high standard of mitigation, comparable with other similar railway schemes in Britain.

The Policy will ensure that the following are achieved:

- (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 exceedance of stringent thresholds in an area where the ambient noise is currently low. Chiltern Railways has chosen to offer this high standard of mitigation. It is not a statutory requirement.
- (v) 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.

These commitments and the ways in which the Policy will be implemented are set out in the remainder of this Policy.

The Policy, which has been agreed with Network Rail, applies to any works authorised by the Transport and Works Act Order.

1. *HOW WILL THE POLICY BE APPLIED?*

INTRODUCTION

- 1.1. Chiltern Railway has applied for the Chiltern Railways (Bicester to Oxford Improvements) Order. The Order, if made, would allow for the railway works to be carried out in phases. Phase 1 consists of those works required to allow the operation of Chiltern Railways' proposed London Marylebone to Oxford passenger services together with the freight services that currently operate on the Bletchley to Oxford line between Bicester and Oxford. Phase 2A, which is the lowering of the trackbed of the Wolvercot Tunnel, will be undertaken at the same time as the Phase 1 works.
- 1.2. The Phase 1 and 2A works will be carried out as soon as the Order is approved, so that their passenger services can start no later than May 2013. Further works, in Phase 2B, will take place at a later date and be undertaken either by the East West Rail (EWR) consortium or others on behalf of Network Rail (NR). The Phase 2B works are mainly those to provide double track between the MoD depot at Bicester and Islip and through the Wolvercot Tunnel.
- 1.3. The Noise and Vibration Mitigation Policy has been prepared by Chiltern Railways and agreed by Network Rail. It will be applied, in the first instance, by Chiltern Railways when designing in detail, building and operating the works in Phase 1 and 2A. EWR, or others on behalf of NR, when they undertake the Phase 2B works, will also apply this policy. Hereafter, in this policy, the organisation which builds the relevant works is called the 'Promoter'.
- 1.4. The purpose of this policy is to set out the Promoter's commitments to mitigating noise and vibration effects arising from operation of the railway. These are based on the commitments made in the Environmental Statement ⁽¹⁾.
- 1.5. The mitigation of noise and vibration effects during construction will be the responsibility of the Contractor, who will have to work within and abide by an approved Code of Construction Practice.
- 1.6. Chiltern Railways' consultants, Environmental Resources Management, have carried out an assessment of the likely effects of noise and vibration which is reported in the Environmental Statement ⁽²⁾. This has been undertaken by:
 - identifying representative noise sensitive receptors (primarily residential properties) along the entire railway route;
 - measuring current actual noise levels at these locations;

(1) Chiltern Railways (Bicester to Oxford Improvements) Order, Environmental Statement, ERM, 2009

(2) See chapter six (of volume 2) of the Environmental Statement which accompanies the Transport and Works Act Order Application.

- predicting likely future noise levels, based on noise measurements relating to the actual types of passenger and freight trains that will be used on the railway;
 - comparing these predicted levels against noise impact assessment criteria and outlining, where necessary, appropriate mitigation measures.
- 1.7. The detailed design of the Phase 1 and 2A works will be developed by Chiltern Railways' appointed contractor. This will involve refinement of the mitigation following the principles set out in this policy. This will ensure that the residual noise effects at any location are no worse than those reported in the Environmental Statement.
- 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.

INSTALLATION OF NOISE MITIGATION MEASURES

- 1.11. Noise mitigation measures in accordance with this policy will be installed during the Phase 1 and 2A works, to be completed before the commencement of Chiltern Railways passenger services. Before the Phase 2B works take place, any additional noise mitigation measures made necessary by those works and the services in the reasonable planning scenario for Phase 2B will be designed. The assessment of noise and vibration for Phase 2B will cover all parts of the route, where service frequencies are expected to increase in Phase 2B. The mitigation measures will be installed before the Phase 2B works are brought into use. After each Phase of works, the effectiveness of the noise insulation measures installed will be monitored, as detailed in para 2.11.

2. ***HOW IS NOISE ASSESSED TO DETERMINE APPROPRIATE MITIGATION?***

PRINCIPLES

2.1. The Noise and Vibration Policy is intended to ensure that noise and vibration mitigation is provided on a fair basis for all landowners and occupiers affected by the Order Scheme.

2.2. The Promoter is committed to using the Best Practicable Means ⁽¹⁾ to design the railway so as to avoid significant noise and vibration impacts at existing sensitive receptors (e.g. residential properties, educational buildings and places of worship). The first preference will be to apply necessary noise control measures at source where this is reasonably practicable. These may include rail damping or other infrastructure measures to reduce noise at source. Where this is not reasonably practicable or sufficient to mitigate significant noise impacts, the Promoter will:

- where they are effective and reasonably practicable to install, provide noise barriers to mitigate noise between the track and sensitive receptors; and
- after considering all practicable mitigation measures that can be taken at source (i.e. within the railway corridor), including noise barriers, offer noise insulation to properties where residual noise impacts on sensitive receptors remain high.

(1) Best Practicable Means are defined in Section 72 of the Control of Pollution Act 1974 as those measures which are “reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge, financial considerations and compatibility with safety and safe working conditions”

- 2.3. The Promoter will consult with landowners and occupiers who may be affected by noise and vibration to explain the mitigation measures that are proposed.

The assessment of noise uses technical terms, which are described in Annex A. The provision for noise mitigation will be based on two sets of absolute noise levels ⁽¹⁾. The first are 'Noise Impact Threshold' levels, below which noise impacts are never significant. The second set of levels are the 'Noise Insulation Trigger' levels. These are the noise levels predicted at the most exposed windows to noise sensitive rooms in noise sensitive buildings, and are free-field ⁽²⁾ noise levels.

Noise Impact Threshold levels: *Day - L_{Aeq, (0700-2300 hours)} 55 dB* ⁽³⁾
Night - L_{Aeq, (2300-0700 hours)} 45 dB

- 2.4. Where train noise is predicted to be above either of these threshold levels, but where the level is still less than that set out in the Noise Insulation Regulations requiring noise insulation to be provided, the Promoter will provide mitigation measures to reduce the adverse impact of noise. These will vary according to the extent to which the train noise level exceeds the threshold levels and the extent to which overall noise is increased above the existing or ambient noise level, as follows:

- 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.

These standards are consistent with those applied in the Environmental Statement, where noise mitigation is considered at source for impacts that are greater than 3 dB and in the form of noise barriers for impacts above a minimum of 5 dB. (Noise impacts in the ES are calculated by considering both the exceedance of the threshold criteria and the increase in overall noise, and taking the lower of the two.) The noise benefits of noise barriers are more likely to outweigh any dis-benefits, where the noise increase is above 7 dB. There are certain locations where because of the topography of the railway

(1) The standards relate to disturbance of building occupants, and do not relate to specific effects such as speech interference.

(2) Free-field means away from reflective surfaces, except the ground.

(3) $L_{Aeq, T}$ is the A-weighted equivalent sound level over the period T. A-weighting is a frequency weighting that replicates the frequency response of the ear. $L_{Aeq, T}$ is a widely used noise parameter that represents a varying noise level by calculating the constant noise level that would have the same energy content over the measurement time period. It is recommended parameter for train noise.

and adjacent properties, safety or visual impact, barriers cannot be installed or will not be effective.

- 2.5. Noise barriers or other noise attenuating infrastructure solutions will achieve noise reductions in most areas, to near to the existing noise levels. However residual noise impacts may still occur at particular locations. If, after consideration of the effects of noise mitigation measures at source, any of the Noise Insulation Trigger levels is still exceeded, then noise insulation to relevant properties will be offered, provided the corresponding existing or ambient noise level is routinely exceeded by at least 1dB. Noise insulation will be provided in accordance with the Noise Insulation (Railways and Other Guided Systems) Regulations. The noise level thresholds at which this will be offered are shown below in terms of free-field noise levels that are equivalent to the façade levels provided for in the Regulations.

Noise Insulation Trigger Levels

<i>Day</i>	$> L_{Aeq, (0600-0000 \text{ hours})}$	66 dB ⁽¹⁾
<i>Night</i>	$> L_{Aeq, (0000-0600 \text{ hours})}$	61 dB

- 2.6. Even with the mitigation in paragraph 2.5, some of the properties close to the railway may still experience residual noise impacts that may be classed as 'high'. A 'high' impact is the equivalent of a noise impact of greater than +10 dB. If these properties are not already to be provided with insulation under the Noise Insulation Regulations, they will be offered additional mitigation, which is likely to be in the form of noise insulation.
- 2.7. If maximum pass-by free-field noise (L_{Amax} , the instantaneous 'peak' as the train passes) regularly exceeds 82 dB (free-field) at night, this is considered to be a significant impact, based on guidance on the prevention of sleep disturbance, except where ambient maximum noise levels are already above the predicted train noise level. One or two events per night would not be interpreted as regular, but the 8 assumed freight movements each night in Phase 2B are considered to be regular. In those very few locations likely to have such noise effects, additional noise attenuation measures will be taken to include the offer of noise insulation to affected properties. This form of mitigation is particularly effective in addressing night-time noise impacts when noise levels inside buildings are the key factor as regards sleep disturbance. The following additional criterion for noise insulation is therefore being applied.

Significant impact, need for further mitigation likely to be noise insulation:

	<i>Night</i>	$> L_{Amax}$	82 dB ⁽²⁾
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(1) Day is generally defined as 0700-2300 hours, except in the Noise Insulation Regulations, where it is defined as 0600 hours to midnight. These noise levels are free-field values that are equivalent to the values defined in the Noise Insulation Regulations

(2) L_{Amax} is a measure of the peak noise level, A-weighted

MITIGATION OF VIBRATION

- 2.8. The levels of vibration resulting from passenger and freight trains operating on the new railway will be far below the levels that might cause structural damage to buildings. However, the additional trains may give rise to perceptible levels of ground vibration in adjacent occupied properties. Vibration Dose Value (VDV) ⁽¹⁾ is a measure of the accumulated level of ground vibration over a period, and, through the application of BS6472 ⁽²⁾, is a standard metric for predicting the likelihood of adverse comments from building occupants. The standard gives the following threshold VDV levels at or below which the probability of adverse comment is low:
- Day (0700 – 2300 hours) - 0.4 m/s^{1.75}
 - Night (2300 – 0700 hours) - 0.2 m/s^{1.75}
- 2.9. By comparison, the measured levels from the types of passenger and freight trains that will be used on the new railway, running on standard ballasted track, suggest that even at 8 m from the track the levels will be 0.14 m/s^{1.75} during the day and 0.12 m/s^{1.75} at night which are very much less than the “adverse comment” thresholds set out above. Trackforms will be designed and installed adjacent to occupied vibration sensitive receptor buildings using Best Practicable Means to keep within the thresholds.
- 2.10. Where existing vibration levels are already above either of the thresholds set out above, mitigation will be considered where the change in VDV is 50% or more as a result of the Phase 1, 2A and 2B works.

MONITORING AND MAINTENANCE

Monitoring

- 2.11. A noise and vibration monitoring scheme for the Phase 1 and 2A works will be implemented to ensure that the performance of the mitigation measures that are installed achieve the levels of noise mitigation predicted by the design contractor, whose design instructions will include the requirement to achieve the residual noise levels set out in the Environmental Statement. The monitoring scheme will include the carrying out of surveys, the first being undertaken at around 6 months after the opening of the railway for Chiltern Railways passenger services, at locations agreed with the local planning authorities. A second survey will be undertaken 18 months after opening. If defects in construction or performance are identified in the first survey, these will be corrected in a timely manner by the contractor. If any defects in construction or performance are found in the second survey, these will also be corrected in a timely manner by the contractor. The same procedure for post construction monitoring surveys and the remedy of defects or performance

(1) Vibration Dose Value, VDV, is the vibration metric recommended in BS6472 -1, 2008 for the assessment of annoyance from railway vibration. It is a measure of the overall vibration dose throughout a day or night period. It is highly weighted towards peaks and has the units m/s^{1.75}

(2) BS6472: 2008 Guide to Evaluation of human exposure to vibration in buildings (1 Hz to 80 Hz) Part 1 Vibration Sources Other than Blasting.

will be undertaken after the Phase 2B works have been completed and EWR services introduced.

- 2.12. The results of the Phase 1 and 2A monitoring will be published in an easily accessible format on the Chiltern Railways website and in the project newsletter and will be made available, either in hard copy or in electronic format, to any person requesting the information. Arrangements for publishing the surveys after Phase 2B will be agreed with the local planning authorities.

Maintenance

- 2.13. The railway, and in particular the wheel and rail surfaces, will be maintained so as to minimise noise and vibration at sensitive receivers.

OTHER NOISE MITIGATION

Station Announcements

- 2.14. Directional public address systems will be used that minimise the impact on nearby properties whilst maintaining audibility on platforms. The station operator will establish appropriate sound levels for station Public Address systems and will seek to address complaints, if they are received from occupiers of noise sensitive premises, as far as is reasonably practicable within railway safety requirements.

Train Stabling and Servicing

- 2.15. Chiltern Railways trains will not be stabled or serviced in the carriage sidings at the north end of Oxford station. Drivers will be instructed to shut down engines if the train is not to be moved within 5 minutes of arrival at Oxford station, and all Chiltern trains are equipped with automatic systems to shut down the engines if the train has been standing for more than 15 minutes.

Train Horns

- 2.16. Safety regulations require train drivers to sound the train's horn to warn of their approach in certain situations, for example, at certain level crossings or where there is risk of collision. This is essential, but after the Phase 1 works are completed, all of the present level crossings, except London Road, Bicester will be permanently closed and the situations where horns need to be sounded will be much reduced. There will be audible alarms on the crossing at London Road, Bicester and horns will not be used except in emergency. Although it is an inherent feature of the scheme rather than a specific mitigation measure, the reduction in horn noise will reduce noise impacts from this distinctive noise source, and so it has been noted in this section.

ANNEX A NOISE TERMINOLOGY

WHAT IS 'NOISE'?

- A.1 The terms “sound” and “noise” tend to be used interchangeably, but noise can be defined as unwanted sound. Your neighbour may enjoy the sound of his music at 2am but you would be disturbed by the noise.
- A.2 Sound is a normal and desirable part of life. However, when noise is imposed on people (such as from industry, construction or transportation) it can lead to disturbance, annoyance and other undesirable effects.
- A.3 It is relatively straightforward to physically measure sound with a sound level meter, but it is a different matter to quantify the sound in terms of how noisy it is perceived to be and the effects it may cause.
- A.4 For this reason we draw on various standards and guidelines that relate a measured noise level to the effect it is likely to have. These guidelines are generally based on large scale social surveys that have produced accepted, all be it approximate, relationships between noise level and effect.

AN EXPLANATION OF NOISE LEVELS

- A.5 Noise is measured and quantified using decibels (dB). This scale is logarithmic, which means that noise levels do not add up or change according to simple linear arithmetic. For example, any two equal noise sources added together give only an increase of 3dB higher than the individual levels (e.g. 60 dB + 60 dB = 63 dB, not 120 dB). This represents what happens in practice when two equal sounds coincide; the ear perceives only a slight increase in noise and not a doubling.

The following table provides examples typical of noise levels.

Examples of Noise Levels on the Decibel Scale

Noise Level dB(A)*	Typical noise source / example
0	Threshold of hearing (lowest sound an average person could hear)
30	Quiet bedroom at night
40	Whispered conversation at 2 metres
50	Conversational speech at 1 metre
60	Busy general office
70	Loud radio indoors
70 – 75	Existing trains at Lakeside
80	Lorry at 30 kph at 7 metres
90	Lawnmower at 1 metre

*The dB(A) scale is a particular way of measuring the different frequencies in sound designed to match how the human ear works, called 'A'-weighting.

A.6 The way human hearing works is conveniently similar to the logarithmic changes in noise.

- An increase of 1 dB in noise levels cannot usually be heard (except possibly in 'laboratory' conditions).
- An increase of 3 dB is generally accepted as the smallest change that is noticeable in ordinary conditions.
- An increase of 5dB is clearly perceptible.
- An increase of 10dB seems to be twice as loud.

HOW IS NOISE MEASURED?

A.7 There is a little more to the measurement of noise than pointing a sound level meter and taking a reading. Because noise tends to vary over time, we need to find a way of measuring it in a manner which represents the variation in noise level that also reflects people's perception of how noisy it is. Over the years a number of different ways to measure noise (metrics or parameters) have been developed as the best ways of representing different types of noise sources (single events, industry, road traffic, railway, aircraft etc). Those relevant to the Chiltern Railways are introduced below.

NOISE MEASUREMENT PARAMETERS

A.8 The parameter or metric $L_{Aeq,T}$ is called the continuous equivalent sound level. It is a widely used noise parameter that represents a varying noise level by calculating the constant noise level that would have the same energy content over the measurement time period. The letter 'A' denotes that 'A'-weighting has been used and 'eq' indicates that an equivalent level has been calculated. Hence, L_{Aeq} is the A-weighted equivalent continuous sound level, measured over time period 'T'.

A.9 Detailed surveys have been carried out into people's responses to different sources of noise and these have been used to define which noise metrics provide good relationships with perceived noisiness. PPG 24 which deals with the assessment of environmental noise from sources for example, advocates $L_{Aeq, Period}$ for all types of transportation noise.

A.10 It is important to appreciate that whilst L_{Aeq} does give a measure of the accumulated noise over a period of time it is not like a conventional (arithmetic) average. It is in fact a logarithmic average. The effect of this is to give a high weighting to high noise levels even if they are relatively short lived or infrequent peaks.

A.11 The difference between arithmetic and logarithmic (L_{Aeq}) averaging can be illustrated by considering the average age of a class of 30 children and their teacher. Suppose the children are 5 years old and the teacher is 40 years old. The arithmetic average age is just 6, whereas the logarithmic (L_{eq}) average is 16. This partly explains why L_{eq} has been found to be a good indicator of the

effects of noise that comprise a series of varying signals over a period of time, such as railway noise.

A.12

An L_{Aeq} level can be calculated over different time periods depending on the characteristics of the noise and how people are exposed to it. If the noise is steady, a relatively short measurement period will be sufficient to characterise it. If it fluctuates randomly or has cyclical elements, then a longer measurement period will be required to obtain a representative sample. Some standards specify a measurement period, but 10 to 15 minutes is often adequate to obtain repeatable results. In terms of train noise for Chiltern Railways, the approach that has been taken is to identify the noise levels from individual trains and to use these to calculate the noise levels over suitable day and night periods.

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Subject Advice on rail dampers for Oxford City Council

Date 5 January 2017

Job No/Ref H05-OB

- [1] Oxford City Council (OCC) has sought advice from Arup relating to planning Condition 2 of 15/00956/CND which relates to the use of ‘Tata SilentTrack’ in Section H of the East West Rail Link phase 1 (EWR) scheme and Condition 2 of 15/03503/CND, which relates to its use on Section I.
- [2] Tata SilentTrack is a type of ‘rail damper’ which is a mitigation measure for reducing train noise. Arup have experience of evaluating the performance of this mitigation measure during the planning, design and construction stages of rail projects which include High Speed 2 and the Network Rail Thameslink Programme.
- [3] On 2 September 2016 Arup provided OCC with answers¹ to specific questions about the performance of rail dampers and the effect that these measures could have on mitigation and insulation proposals defined in the two Noise Scheme of Assessments (NSoA) for section H and Section I. Our advice informed, in part, OCCs response to Network Rail.
- [4] On the 28 October 2016 Network Rail provided a supplementary statement responding to further points made by OCC. The supplementary statement made reference to our advice and in some cases challenged statements made. OCC have requested that we respond to additional questions relating to NRs supplementary statement.

1 Response to Supplementary Statement submitted by ERM in respect of Network Rail’s applications to remove Condition 2 of 15/00956/CND and 15/03503/CND

- [5] Using the excerpts below and other relevant content OCC have requested that we comment on key items in the Supplementary Statement, as follows:

1.1 At source mitigation measures (Section 1.2, p.5)

“Table 1.1 responds on the relevance of the at source noise mitigation measures identified in Table 1 of the Arup Technical Note prepared for OCC, 2 September 2016 which forms Appendix 4 of the WAPC Committee Report of 13 September 2016, and identifies where these are applied in Sections H and I/I.

In summary, the majority of measures suggested by Arup are not relevant to the local conditions to this type of project, or in the case of noise barriers, noise insulation and maintenance, the measures are already being implemented. The only measure referred to which is within NR’s power to provide, and which is not being proposed because, in Network Rail’s view, it is not reasonably practicable is rail dampers in the form of SilentTrack”

- [6] In H04-OB we set out different railway noise control measures which could be applied at source in specific circumstances to mitigate noise (Table 1 of H04-OB).
- [7] We agree that many of the measures outlined in H04-OB are not relevant to the EWR Scheme. Our brief was to set out recognised mitigation measures in general, not to identify

¹ H04-OB_issue_1 – 2 September 2016.

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measures which should necessarily be considered by NR in the context of the planning conditions under consideration.

1.2 Effect of Silent Track where insulation has been applied (Section 1.2, p7)

“Arup, in Section 6 of its Technical Note, considers that were rail damping to be installed with noise barriers in situ, there would be a beneficial effect of removing the need to provide non-statutory noise insulation at a number of properties. Arup states in paragraph 36 that ‘Rail dampers could therefore have the beneficial effect of removing the need to provide non-statutory noise insulation, according to the NVMP, at six receptors in Section H and two receptors in Section I’.

NR disputes this point and the analysis on which Arup has based its conclusions. It is fundamentally inappropriate to describe the outcome that some properties would no longer be eligible for noise insulation as a benefit. This is because the result of providing noise insulation is to reduce the noise within the properties by substantially more than the reduction provided by SilentTrack. If the Arup logic were followed through, the net effect of providing SilentTrack rather than noise insulation would be to increase noise exposure within those buildings otherwise eligible for noise insulation under the NVMP. This is the result of the fact that provision of noise insulation and ventilation allows for windows to be kept closed which increases noise insulation by 10 dB(A) or more, whereas the effect of SilentTrack, based on the available evidence is 2.5 to 3 dB(A).”

[8] In paragraph 33 of H04-OB we set out the reasons why source based mitigation measures are preferred to transmission based measures, why source based and transmission based measures are preferable to sound insulation and why sound insulation measures should be regarded as a last resort. The reasons are:

- All else being equal, the benefits of noise reduction measures at source are universal i.e. not limited to particular directions or orientation;
- The installation of noise insulation is intrusive and its take up cannot be relied upon (the rate of uptake of offers is typically in the order of 50% but can vary significantly from scheme to scheme);
- The benefits of noise insulation are time limited and are not permanent and the noise reduction provided by secondary glazing diminishes over time.

[9] This remains our position. It is true that the level of noise reduction provided by rail dampers is less than the “10dB(A) or more” reduction quoted by NR that can be achieved with closed windows. However the same could be said of the other mitigation measures that are being proposed in the NSOAs.

1.3 Maximum noise level (LAmax) assumptions

“Furthermore, eligibility for non-statutory noise insulation (which is by far the most common trigger for noise insulation) is usually driven by the maximum noise level parameter (LAmax) and its exceedance of the NVMP noise insulation trigger levels. However, none of the data provided by Tata for SilentTrack from the UK or any other country, provided any evidence of the reduction in maximum noise levels achievable due to the use of SilentTrack. Therefore, Arup’s analysis is based on a false assumption regarding the effect on maximum noise levels and is not valid as a result. Whilst data does exist regarding the lowering of LAeq parameter (in situations without barriers) the mechanisms which may lead to maximum noise levels could produce significantly different results. For instance, the maximum noise level from freight trains can be dominated by the traction noise from the power unit of the diesel locomotive, whereas the LAeq can be dominated by the large number of freight wagons in a freight train. The results

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could differ because for the freight locomotive, the engine noise may dominate and the overall effect of SilentTrack would be very low as a result.”

- [10] We note NRs concerns, in particular in relation to whether traction noise, rolling noise or another source of noise are the contributor to maximum noise levels. We agree that rail dampers would provide reduced benefit if noise from another source on the train was contributing to the maximum noise level. We would accept NRs points if they could confirm that the maximum noise levels presented in the NSOA are as a result of a noise source other than wheel/rail noise. With reference to the NSOA for Section H, the assessment does not identify whether the predicted maximum noise levels presented are as a result of passenger trains or freight trains or for a source other than wheel/rail noise. We note that the maximum noise level prediction methodology employed considers the importance of rolling noise differently depending on whether the train is a passenger DMU, a freight locomotive off power or a freight locomotive on power. We note that the highest maximum noise levels predicted arise from the freight locomotive off power. The NSOA makes it clear that an underlying assumption of the method is that the maximum noise levels from freight off power are a result of rolling noise and not traction noise.

1.4 Minimum length for Silent Track use

“NR has been advised by Tata that SilentTrack has to be installed over reasonably long lengths ie. over 300m to be effective. The advice from Tata is that there needs to be an overrun past properties that are to be protected. A length of 100 to 150m on either side of the property was deemed to be a suitable length”

- [11] We agree that the length of rail damper installation would need to extend either side of the properties that are to be protected. The optimal length will depend on factors such as the length of trains, distance of the properties to the railway and the ‘angle of view’ of the railway from the property. The lengths proposed by NR are reasonable for use in the cost benefit analysis presented.

1.5 Relevance of WebTAG to “reasonably practicable” test

*“WebTAG is an accepted economic appraisal tool for placing a monetary value on the environmental effects, in this case of reducing noise and the consequent effects on eg. disturbed sleep. It is the **only way** of comparing directly the financial costs and the economic benefits of a mitigation measure that only provides an environmental rather than financial return.”*

- [12] NR have undertaken an economic appraisal of the benefits of the installation of rail dampers on the EWR scheme. To do so they have employed part of the methodology set out in the DfT Transport Analysis Guidance. The analysis concludes that there is no business case for the installation of rail dampers on EWR.
- [13] WebTAG (Web-based Transport Analysis Guidance) is the Department’s transport appraisal guidance and toolkit for appraising the economic case for a scheme. Unit A3 Environmental Impact Appraisal relates to the environment and noise is contained in in this unit. Unit 3.2 describes a process which monetises the impact of various health effects resulting from noise and their application to the appraisal of infrastructure schemes. The unit includes a methodology (and excel toolkit) to calculate the valuation². TAG unit 3.2 was updated in 2015 to value noise impact based on Disability-Adjusted Life Years (DALYs) as opposed

² <https://www.gov.uk/government/publications/webtag-environmental-impacts-worksheets>

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to previous guidance which assessed the noise impact on house prices. This methodology has been used by NR.

- [14] NRs assessments calculate the Benefit to Cost Ratio (BCR) of installing rail dampers, taking into account the installation and replacement costs of rail dampers. The information provided by NR includes BCR calculations for multiple scenarios. In all cases the BCRs are calculated to be less than 1. On this basis it is concluded that rail dampers offer ‘poor value for money’ according to DfT’s economic appraisal methods³. NRs evidence concludes that there is no business case for the trial installation of rail dampers.
- [15] Typically WebTAG is used to assess the economic benefits of a transport scheme in its entirety (including all mitigation measures which form part of the transport scheme) and for all potential economic and environmental impacts/benefits, not just noise. DfT will consider a business case that is informed by an economical appraisal as well as other factors such as the strategic case for a project or the affordability of a scheme. Because TAG Unit 3.2 is used in NRs evidence outside its intended context, a full transport appraisal, we consider it over-simplistic to state that there is no business case for rail dampers based on a cost-benefit assessment of noise only. A complete Transport Business Case is necessary for Ministerial decisions on transport schemes. It was never the intended purpose of WebTAG to assess the costs and benefits of noise mitigation schemes let alone individual components of noise mitigation schemes.
- [16] It is, however, reasonable to use WebTAG Unit 3.2 to inform mitigation decisions. WebTAG Unit 3.2 has been used as information to inform decision making during EIA or design on projects such as High Speed Two or the A14 highway improvement scheme. There is no clear guidance on reasonable BCRs for mitigation measures when Unit 3.2 is used in this way. However, contrary to NRs evidence, in our experience it is common for DfT sponsored schemes to accept mitigation measures with BCRs of less than 1. On HS2 there are examples of proposals accepted by DfT where a BCR as low as 0.24⁴ is considered to be “*good noise benefit relative to cost*”. It is important to emphasise that the purpose of referencing this specific example from HS2 is not to recommend an appropriate BCR for assessing whether rail dampers represent good value for money, but to highlight that there are no set rules for using the webTAG unit 3.2 to inform mitigation decisions in this way. The justification for proposing mitigation measures with BCRs of less than 1 is the consideration of other factors and costs not quantified by WebTAG^{5,6}. In the local context of EWR, we would suggest that it will be for all parties to consider and agree what mitigation is reasonable and sustainable within the context of the NVMP.
- [17] We also note that NRs WebTAG assessment evaluates only one component of the proposed mitigation package (rail dampers) rather than the combined benefits of all mitigation measures set out in the NVMP and the NSOAs. If the economic benefit of the proposed noise barriers outweigh the costs, then an economic appraisal of the combination of noise

³ DfT guidance on value for money assessments - <https://www.gov.uk/government/publications/transport-business-case>

⁴ https://www.parliament.uk/documents/lords-committees/High-Speed-Rail/HOL-00700_Berkswell_Parish_Council_Promoter.pdf (reference to barrier option 2b on page 0067)

⁵ DfT’s guidance on value for money assessments [3] acknowledges that “*appraisals that are produced following WebTAG guidance do not necessarily monetise all costs and benefits of a transport intervention*” and that “*The VfM assessment should take account of quantitative and qualitative assessments of impacts in two stages*”.

⁶ Specifically for noise, the overview of Government’s Noise Economic Analysis explains that the aspects considered in a full WebTAG analysis do not include the effect of noise on the natural environment or productivity.

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barriers and rail dampers is likely to result in a BCR that is much closer to 1 than the assessment of rail dampers alone.

1.6 Revised WebTAG assessment

“In undertaking the analysis of ‘focussed approach’ to the installation of SilentTrack as proposed by Arup, we have rechecked and refined previous calculations and represented these alongside the new scenarios. These refinements relate to the reported Net Present Values [NPVs]. The refinement addresses an anomaly in early calculations which led to an overestimate of the noise benefits during the day in Section H. The methodology and assumptions otherwise remain consistent with the original analysis”

- [18] We have reviewed the revised WebTAG Unit 3.2 assessment by NR. We consider that the BCR calculation for rail dampers has been carried out appropriately.
- [19] Regarding the approach to the assessment, it is noted that the BCR of rail dampers is calculated in isolation of other mitigation measures. As described above, an economic appraisal of the combination of noise barriers and rail dampers is likely to result in a BCR that is much closer to 1 than the assessment of rail dampers alone.

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OXFORD CITY COUNCIL

CHILTERN RAILWAYS (BICESTER TO OXFORD IMPROVEMENTS) ORDER 2012

DISCHARGE OF NOISE CONDITIONS AND RAIL DAMPENING

ADVICE

1. I am asked to advise Oxford City Council (“OCC”) on the interpretation and application of condition 19 (“C19”) of the deemed planning permission (“the 2012 Permission”) granted in conjunction with the Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (“the Order”). C19 provides that operational noise mitigation shall be carried out in accordance with the Noise and Vibration Mitigation Policy January 2011 (“the NVMP”) and that development of each track section (“the Sections”) shall not commence until noise schemes of assessment (“NSoA”) are submitted to and approved by OCC.
2. Under the NVMP, “at source” mitigation is the first preference where it is “reasonably practicable”. Where “at source” measures are not reasonably practicable or sufficient to mitigate significant noise impacts, barriers and then noise insulation are provided for.
3. The issue I have been asked to advise on is whether on a correct understanding of C19 and the NVMP, Network Rail (“NR”) has properly demonstrated that a form of “at source” mitigation namely rail dampening (“RD”) is not RP on, in particular, section H. Resolution of that issue is central to then resolving various procedural issues which have arisen. I am not asked to advise on those procedural issues.
4. I will proceed on the basis that RD may mitigate noise impacts by 2.5dB and that this attenuation is in addition to any other noise mitigation measure. I will also proceed on the assumption that track noise (rather than traction or power on) is the dominant noise source in terms of LA_{max}.
5. I understand that:
 - a. the barriers have been found to be acceptable in planning and safety terms; have been promoted as “reasonably practicable” and have been constructed;
 - b. much of the noise insulation has been installed (in addition to barriers); and
 - c. the line is now operational.

Background and Context for the Current Issue

6. In 2015, NR applied to discharge C19 in respect of Section H. The application was accompanied by the Noise Scheme of Assessment (“NSoA”) for Section H which proceeded on the basis that because RD had not been “type approved” it was not considered to be a practicable mitigation measure. Barriers were thus proposed with residual impacts above 10dB or peak noise above 82 LA_{max} being addressed by noise insulation.
7. Given the terms of C19, OCC correctly questioned whether the absence of “type approval” meant that RD was not RP. It approved the NSOA for Section H (“the Partial Approval”) but imposed condition 2 on it. I am not asked to advise on the legality of the imposition of that condition on the approval.

8. C2 provided that within 3 months of the Partial Approval, proposals for RD were to be submitted and the development was not to be brought into operation until either RD was installed or OCC had provided written confirmation that RD was not RP.
9. The essential point at this stage is that the other measures proposed in the NSoA were approved. They included barriers (see NSoA Fig 5.1) and entitlement to noise insulation for certain properties: p31. It necessarily follows from the Partial Approval of those works that RD was to be considered *in addition to* and not *in substitution* for those works. Otherwise, Partial Approval could not have been granted and NR would have been required to submit a complete new NSoA starting from consideration of RD.
10. I am told that those approved works have been completely or largely carried out. The issue of whether RD is RP under C2 (or C19(12) – see below) remains outstanding.
11. The effect of that history is as follows:
 - a. all the dwellings identified as representative noise sensitive receptors (“NSR”) with a predicted impact of greater than 5dB have in fact been provided with mitigation in the form of noise barriers (see NSoA Scheme H table 5.2);
 - b. for all dwellings which experience a residual impacts (namely the impact after provision of noise barriers) of greater than 10dB or a peak of 82, noise insulation has been (or will be) provided; and
 - c. there is one house which has residual impacts after noise barriers of 3dB but which is not entitled to noise insulation.
12. There are also some houses which, if RD had been provided would have seen their residual impacts drop below 10dB and/or not experienced a peak of 82 – thus meaning that they would secure attenuation from RD of about 2.5dB but not be entitled to noise insulation. Given that noise insulation secures around 10dB attenuation, their noise environment would be significantly worse with RD than with noise insulation.
13. The question now is whether, in all the above, circumstances, it is RP to require RD in addition to the steps already taken¹ in order to achieve the standards of noise mitigation in the NVMP (see: C19(9)).
14. The following points are important to provide more of the context for addressing that question:
 - a. from table 5.2 of the NSoA for most properties assessed the residual impacts in LA_{eq} terms (after barriers) are far greater than could be significantly attenuated by RD. With noise insulation, no significant effects to these properties are predicted (see ES page 6-54) and it is not, therefore, clear what significant additional benefit RD could therefore provide;
 - b. for 4 properties the residual impact is 5dB or below. For 3 of these the residual impact is 3dB or less. Under the NVMP impacts of less than 3dB do not fall to be mitigated because the impact is not considered significant; and

¹ Where noise insulation has not yet been installed, I assume that if RD was RP, entitlement to noise insulation would be removed.

- c. the standards in the NVMP are intended to achieve acceptable internal noise levels – the fact that RD will provide external mitigation whereas noise insulation does not has to be understood in the context of the NVMP aiming to mitigate internal noise.

Condition 19

- 15. The reason for C19 is to ensure that operational noise is adequately mitigated at residential and other noise sensitive properties.
- 16. As noted above, C19 provides that operational noise mitigation shall be carried out in accordance with the NVMP. Development of each Section shall not commence until the NSoA for that section setting out noise impacts and details of proposed mitigation measures have been agreed by OCC – C19(2). The submitted schemes shall show how the *standards* of noise mitigation in the NVMP will be achieved – C19(9). The robustness of the scheme will be verified by a report from an independent expert (“IE”) - C19(9).
- 17. Condition 19(12) covers the situation where Chiltern Railways -now NR – considers that the provision of mitigation measures that would otherwise be required by the NVMP is “not reasonably practicable”. In such circumstances, alternative mitigation is to be considered (and provided) unless that alternative mitigation is not reasonably practicable and there is no suitable substitute. “RP” is the central concept with which we are concerned.

Approach to Interpretation and Application

“Reasonably Practicable”

- 18. C19 does not define “reasonably practicable”. It is however a well understood term - with ordinary words bearing their ordinary meaning. Here, the NVMP provides some assistance as to the relevant matters to be taken into account in deciding whether something is “reasonably practicable” - it is to be judged having regard among other things to local conditions and circumstances, to the current state of technical knowledge and financial considerations. The list of relevant factors is not closed.
- 19. From the case law it is clear that the degree and nature of the harm has to be weighed against the money, time, trouble and any other disadvantages in avoiding that harm (“the sacrifice”) - the greater the harm, the greater the sacrifice that will be RP to avoid that harm. However one words it the approach is the same: if the sacrifice is disproportionately heavy compared to the harm or the harm is insignificant in relation to the sacrifice or (using language from earlier cases) there is a “gross disproportion” between the harm and the sacrifice, the suggested steps to avoid the harm will not be reasonably practicable. Conversely where the sacrifice is not disproportionately heavy given the harm, the steps to avoid the harm will be reasonably practicable.
- 20. All of this is quintessentially a matter for the judgment of the decision maker with which the Courts will not interfere. The judgment is thus for OCC to reach informed by the Independent Expert and the detailed material provided to it. In that exercise, Webtag will assist but it does not purport to provide a conclusive answer to the RP question and there is a real danger in treating Webtag as providing a “scientific” answer to what is ultimately a question of judgment to be reached on the facts and in context.
- 21. There has been much debate as to whether the benefit-cost ratio (“BCR”) exercise should be a BCR of the whole project, of the complete package of mitigation or of just the RD. Webtag does

not provide a clear answer to that issue²². I think the role of Webtag will depend on what it is assessing - and what it is assessing will determine what the BCR is to be of. Here, the scheme and the barriers have been installed. The remaining question for OCC under C2 or C19 is whether RD is RP given the context – given that the noise environment would be x without RD and Y with RD is the cost of installing it disproportionate to the benefits it would bring? Even if I am wrong on this, I do not think it affects the final conclusion for reasons I consider below.

22. I consider that OCC is required to judge the significance of the harm which can be avoided by use of RD and then to assess whether the steps required to avoid that harm are or are not disproportionately heavy in all the circumstances.

Approach to Construction

23. The principles on construing and applying conditions apply equally to construing and applying schemes incorporated by reference into those conditions.
24. First, conditions are to be given the meaning a reasonable reader would give to them having available to him only the permission and the documents expressly incorporated by reference into it: see *Carter Commercial v. SSTLGR* [2002] EWCA Civ 1994 in which Arden LJ stated as follows:

“I start from the position that this planning permission is not to be construed like a commercial document, but is to be given the meaning that a reasonable reader would give to it, having available to him only the permission, the variation, the application form and the Lewin Fryer report referred to in condition 4 in the planning permission itself.

25. Second, conditions are to be interpreted benevolently and not narrowly or strictly (see Sullivan J in the *Carter Commercial* case in the High Court). This is particularly relevant in the case of the NVMP which requires judgments to be reached at each stage and which is evidently intended to be applied flexibly in the way judged best able to avoid “significant” noise impacts – see below.
26. Third, the overall approach to construction is an objective exercise – based on the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words and common sense: see Lord Hodge in *Trump International Golf Club Scotland Ltd v. Scottish Ministers* [2015] UKSC 74 at [34]. I rely heavily on this formulation. The application of common sense and judgment here is, I think, particularly important given the wide range of potential circumstances which the condition covers, the range of impacts predicted, and that the most appropriate way of mitigating the impacts, is not capable of being, and is not, precisely defined in the conditions.
27. Fourth, the application of conditions will often require the application of judgment: see e.g. *Greaves v. Boston Borough Council* [2014] EWHC 3590 (Admin) at [37]. In that case, the condition left certain matters unspecified but the gaps could be appropriately filled by the judgment of those called upon to implement it. So here, where a strict application of an “at source first” approach would result in significant residual impact which the conditions as a whole would not further mitigate, judgment and commonsense will be a useful guide.

²² Although I note that the BCR of 0.24 to which ARUP refer is a BCR of a particular piece of mitigation and not of the whole HS2 (including that mitigation).

28. Fifth, where judgments are required to be made, they are for the decision maker to make weighing up all the relevant factors and following the staged process of reasoning required by the conditions.
29. All those principles strongly indicate that the NVMP is not to be construed and applied mechanistically as if it creates a straitjacket for decision making but rather as a practical document to be used to guide appropriate judgments as to what form mitigation should take and what extent of mitigation should be secured in all the circumstances with a first preference for at source measures (for, broadly, the reasons given by ARUP), then barriers and if necessary noise insulation.

The NVMP and the ES

30. The NVMP refers extensively to, relies on and develops concepts from the ES. It is appropriate to start the analysis from the ES.

The ES

31. The ES states that “where noise, predictions show a potential for *significant* impacts, mitigation measures are set out”: ES para 6.1 p6-1.
32. The ES has a detailed scheme for assessing *significance* – in a hierarchy of impacts.
33. First, predicted train noise below the noise impact thresholds (55 $L_{Aeq, 16\text{ hrs}}$ day and 45 $L_{Aeq, 16\text{ hrs}}$ night) are “never significant” – ES Chp 6 p. 6-6; and NVMP para 2.3.
34. Second, where train noise is above these noise impact thresholds but below the noise insulation trigger levels (66 $L_{Aeq, 16\text{ hrs}}$ day and 61 $L_{Aeq, 16\text{ hrs}}$ night) the increase above ambient is assessed in accordance with table 6.3 (ES: p6-5) with the significance of the impact categorised as no impact (0), slight (less than 3dB), moderate (3dB – 5dB), substantial (5 – 10dB) or high (greater than 10dB) impact.
35. Third, where the noise levels are above the noise insulation trigger levels and exceed the ambient by 1dB or more, noise insulation is triggered.
36. Fourth, if the peak “instantaneous” noise regularly exceeds 82dB, that is treated as significant and the need for noise insulation is triggered.
37. We are principally concerned with the second category and I focus on that. Within that, mitigation is only proposed for “substantial or high” impacts: see table 5.2. I interpolate that moderate (less than 5dB) and slight (less than 3dB) impacts were not, at that stage, judged “significant”. Had they been judged to be significant in accordance with para 6.1 mitigation measures would have been set out. This appears to be confirmed by the following text: “areas rated as having no impact or where impacts have been rated as slight or moderate in this assessment are not considered suitable locations for further location specific mitigation given the potential disbenefits.
38. It is recognised that although some change in noise level may occur in these areas as a result of the Scheme (as presented in table 6.12 and table 6.13) they are either “small changes in noise level, or the noise from the railway is unlikely to be loud enough to cause a significant disturbance.” [ES:6-47]. The ES does not therefore propose any mitigation for premises in the 3 – 5dB (moderate impact) category it having been judged at that time that any mitigation over and above standard at source measures (namely those measures referred to in the ES at para 6.5.1 page p6-47 which exclude RD) was not justified given that the noise impact was unlikely to be

sufficient to cause a “significant disturbance”. The important point is that dwellings suffering 5dB impact *no mitigation at all* was proposed.

39. The ES goes on to explain that where, but (I interpolate) only where, “further measures are required in addition to those that are inherent in the Scheme’s design and operation procedures, a range of mitigations may be appropriate including” rail dampers, reflective barriers, absorbent barriers, double glazing or full noise insulation: ES6-48.

40. The ES goes on:

“During detailed design the first option will be to mitigate noise using infrastructure based mitigation which has the advantage of providing noise control at source. Following this, the introduction of noise barriers will be considered. Noise barriers are a widely used method of mitigating noise from the railway. However, noise barriers can also create a number of disbenefits depending on local conditions [these are then set out].

Given these inherent issues, it will be necessary to decide, in each location, whether the noise attenuation benefit of a noise barrier compares to the disbenefits it will create. This judgment should be based on local circumstances, but in general Chiltern Railways do not consider it appropriate to mitigate noise impacts of less than 5 to 7dB by the use of noise barriers. Where substantial or high noise impacts are likely, the benefits of noise barriers are increasingly likely to outweigh the dis-benefits as the noise impact increases in magnitude.”

Other infrastructure based mitigation solutions, such as rail dampers, will also be considered where appropriate. Possible locations for these are where it is likely that barriers will not provide an effective mitigation solution and in other cases (such as tall properties close to and overlooking the railway) where barriers may not offer effective screening to the upper floors.

....

Noise insulation will reduce internal noise levels within eligible rooms...but it does not provide a total solution to a predicted noise impact because it can only mitigate noise levels inside the property and it can be restrictive in use. If noise barriers or other infrastructure solutions are likely to be cost-effective, these will be chosen in preference to noise insulation.”

41. The relevant measures applying that approach are then identified and table 6.22 identifies those receptors at which residual noise impacts greater than moderate are predicted [6-50].

42. Table 6.22 of the ES thus highlights those receptors where residual noise impacts “greater than moderate” are predicted.

“The feasibility of a noise barrier has been considered in each case....It should be noted that in some cases a different infrastructure solution may be adopted if it proves to be more appropriate, and the noise barriers shown are intended to give an example of the level of mitigation that will be achieved....

Where noise barriers are not likely to be appropriate, an explanation is offered. Residual impacts have been predicted based on the likely performance of a 2m high barrier.

Other infrastructure mitigation will also be considered at each of these locations and an appropriate solution chosen following a detailed study taking into account practicability and acoustic performance.”

43. Tables 6.22 and 6.23 show the application of these principles in practice.
44. Those residual impacts then lead to a consideration of “Further Noise Mitigation Measures”. “Some of the properties close to the railway may experience residual noise impacts that are classed as “high”. These locations will be considered for non-statutory noise mitigation which is likely to take the form of noise insulation... Noise insulation packages, where provided, will create acceptable internal levels but some residual impacts to external/garden areas may remain. At other receptors where the impact is less than high, further mitigation will not be provided and the residual impacts are discussed in Table 6.22.”
45. At this point impacts that are “moderate or greater are classed as significant”.

The Inquiry

46. I have not seen how all the iterations of the various documents as the Order progressed. However NR’s position was that “the [NVMP]... defines a significant noise impact as being at or above 3dB which defines the point at which mitigation will be considered”: see para 3.2.7 of Addendum Report to the Secretary of State. I assume that this is a reflection of the provisions of para 2.4 first bullet of the NVMP (see below).
47. I will proceed on this basis – and assume that the identification of “significant” is thus 3dB or above.
48. The continuing significance of the ES is that the ES was only seeking to mitigate impacts above 5dB. For that level of impacts, under the NVMP (see below) NR had a choice as to whether to use “at source” measures or barriers. It was not required to provide “at source” first. NR chose barriers. Those barriers have been implemented. In many cases they are anticipated to be highly effective in reducing residual noise impacts. They are now part of the factual circumstances in which the current issue on RD has to be considered.

The NVMP

49. The purpose of the NVMP is to set out the approach to mitigation of noise from operation of the railway – “based on the commitments made in the Environmental Statement” (para 1.4) which “outlines, where necessary, appropriate mitigation measures” (para 1.6 last bullet). The detailed design will require “refinement of the mitigation following the principles set out in this policy” (para 1.7) to ensure that “the residual noise effects at any location are no worse than those reported in the [ES]”. I note the centrality of the ES to the approach in the NVMP and that the mitigation which the ES provides for is specifically adopted in the NVMP. The NVMP is not seeking to change the commitments in the ES but to refine the mitigation set out there in accordance with the principles in the NVMP. The NVMP therefore has to be understood in the light of the approach in the ES and in particular its approach to barriers above 5db and to noise insulation where there are significant residual impacts.
50. Paragraph 2.2 sets out the overarching approach:

“The Promoter is committed to using Best Practicable Means to design the railway so as to avoid significant noise....impacts at existing sensitive receptors.... The first

preference will be to apply necessary noise control measures at source where this is reasonably practicable. These may include rail dampening or other infrastructure measures to reduce noise at source. Where this is not reasonably practicable or sufficient to mitigate significant noise impacts, the Promoter will:

51. where they are effective and reasonably practicable to install , provide noise barriers..., and

52. after considering all practicable mitigation measures that can be taken at source...including noise barriers... offer noise insulation to properties where residual noise impacts on sensitive receptors remain high.”

53. The noise thresholds are then summarised. Para 2.4 goes on:

“Where train noise is predicted to be above either of these thresholds but where the level is still less than that set out in the Noise Insulation Regulations, the Promoter will provide mitigation to reduce the adverse impacts of noise. These will vary according to the extent to which train noise levels exceed the threshold levels and the extent to which the overall noise is increased above the existing or ambient noise level, as follows:

54. Exceedances of 3dB or greater and increases of 3dB or greater, - mitigation at source through rail infrastructure solutions will be implemented where reasonably practicable.;

55. Exceedances of greater than 5 and up to 7dB and increases of greater than 5dB and up to 7dB - at source and/or in the form of noise barriers if reasonably practicable and have no other negative effects;

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

These standards are consistent with those applied in the [ES] where noise mitigation is considered at source for impacts that are greater than 3dB and in the form of noise barriers for impacts above a minimum of 5dB....The noise benefits of noise barriers are more likely to outweigh the disbenefits where the noise increase is above 7dB. “

57. The text then goes on to assess residual impacts and the provision of noise insulation (paras 2.5 – 2.7).

58. Paragraphs 2.2 and 2.4 have to be read in context (including the ES) and as a whole. NR is committed to using the Best Practicable Means (which incorporates “reasonably practicable” – see footnote) to design the railway so as to avoid *significant* noise impacts. There is no commitment or obligation to remove all noise impacts. Impacts less than 3dB are not judged to be significant. What is the “best practicable means” will be impacted by a very wide range of factors.

59. The first preference is at source mitigation where reasonably practicably (notably including rail damping). There is no suggestion that At Source will always trump other mitigation or that irrespective as to the overall package, At Source always has to be included if RP (see below).
60. Conversely, there is no suggestion at this stage that rail dampening is ruled out as not being reasonably practicable. “At source” is however much wider than just RD – see para 39 above. Below 5db, “at source” is all that will be offered – barriers will not even be considered.
61. “Where [At Source] is not reasonably practicable or sufficient to mitigate significant noise impacts” NR will provide noise barriers (if RP), and “after considering all practicable measures that can be taken at source” (including barriers) offer noise insulation where impacts remain high.
62. Whilst the wording is far from perfect, the overall structure is tolerably clear (applying the principles on interpretation of conditions set out above) and when the NVMP is read fairly and as a whole in its context:
 - a. the aim is to avoid *significant* noise impacts. This does not require all impacts to be eliminated but to reduce noise impacts so far as RP to ensure residual impacts are not significant;
 - b. the measures vary according to the extent of exceedance/increase – this is a function of the fact that the higher the impact, the greater the need for physical barriers to the noise reaching the sensitive receptor and the less likely that mitigation at source will be able to sufficiently reduce the impacts;
 - c. “At Source” is preferred but where it is not sufficient to mitigate significant noise impacts or not RP, other measures will be considered – there is no suggestion that if not sufficient At Source has to be used first and then additions to it provided;
 - d. impacts below 3dB are not significant and no mitigation will be provided;
 - e. below 5dB the only mitigation to be considered (if RP) is At Source. There is no requirement to consider barriers. In other words, these levels of impact do not justify the cost and disbenefits of barriers;
 - f. between 5 and 7dB, NR has a choice between barriers and At Source. Plainly that choice will be influenced by whether just one of them is sufficient to mitigate significant noise impacts. If just one of those options would provide adequate mitigation, para 2.2 and 2.4 cannot be construed as requiring both to be provided;
 - g. above 7dB, the wording is confused but the overall intent is plain – the higher the impacts the more likely it is that noise barriers will be RP despite their drawbacks; and
 - h. where barriers do not provide adequate mitigation and the residual impact is still high (greater than 10dB or 82) to provide noise insulation *to avoid significant noise impacts* - in other words in an attempt to get the residual impact down below 3dB. I do not see how provision of RD in place of noise insulation which would result in a residual noise impact which is still significant, is consistent with the primary aim of “avoiding” significant noise impacts”.

The Current Arguments

63. As I understand it, NR has reapplied for discharge of C19 for Section H on the basis that RD is not “reasonably practicable”. Its argument has two central, and potentially, independent, limbs which can be shortly summarised as follows:
 - a. it says that because of the magnitude of unmitigated noise impacts, RD alone is not sufficient to avoid significant noise impacts and to reduce impacts to the levels

anticipated in the NVMP and the ES. It therefore says that barriers will be required in any event and that those barriers will be sufficient (in most cases) to secure less than significant residual impacts. In some cases, barriers would not be sufficient but neither would barriers plus RD and thus noise barriers and noise insulation would be required instead. It says that provision of RD would have a significant disbenefit in those latter cases because it would, in theory, disentitle some residents to noise insulation which delivers much greater noise attenuation than RD; and

- b. RD is not RP. In terms of finances, using Webtag, NR has assessed a BCR of about 0.35 for the RD taken in isolation from the wider scheme. It says that there is no alternative to use of Webtag, that its approach to looking at the costs and benefits of RD in isolation from the wider scheme is appropriate and that in the circumstances (limited residual noise impacts and noise attenuation) the financial costs mean RD is not RP. All these assumptions are in dispute. RP is more than just about finances. It says that the “local circumstances” component of RP includes the fact that other mitigation has already been provided and must be taken into account in the RP analysis for RD.
64. If either or both of those arguments are correct, it would follow that RD would not be required irrespective, NR says, of the NVMP’s first preference for “at source” mitigation.
65. I think NR is correct on a.. For impacts above 5dB, NR could choose barriers if RP. They have been provided. They are an essential part of the context for now considering RD. Noise insulation will, as I understand it, mean that all significant LA_{eq} impacts are avoided. Provision of RD in place of noise insulation, conversely, would not avoid significant noise impacts. Dwellings promised noise insulation would fall out of entitlement to it because their residual impacts would be less than 10dB or the peak less than 82dB. The resulting noise impact they would experience would thus be far worse than if RD was not provided. If those facts are correct, I can find no support in the NVMP for requiring NR to take steps which would not achieve the objective and would result in a worse residual situation than that anticipated in the ES. It is only if one treats the At Source First approach as an inflexible obligation irrespective as to context or outputs that RD could be required. I therefore do not think that it is necessary to address b. above.
66. In any event, I think NR’s approach to RP is broadly correct. It is for OCC to judge whether applying that approach in the current context, RD is RP. That will require identifying what significant benefits it will achieve, what harm it will cause (including to those who will lose entitlement to noise insulation) and then to weigh that against the costs. The Webtag figures, on NR’s approach, are not in dispute – at about 0.35 BCR. That is far lower than would *normally* be expected (although as already noted the 0.35 has to be understood and applied in its context – what is it measuring). Standing back, OCC needs to consider whether the number of houses which will gain internal benefits and the quantum of those gains (including not having to close windows in summer) outweighs the costs.

Issue A: Need for Barriers and Noise Insulation anyway to “avoid significant effects”

Table 5.2 of the Section H NSoA

67. The ES identified representative Noise Sensitive Properties (“NSR”) for assessment (numbered as “ES/no.”). The NSoA uses those and other properties for which assessments were undertaken during the public inquiry (numbered as “PI/no.”) to assess impacts and define mitigation. In addition for the purposes of defining the start and end point of mitigation measures needed for the NSRs (in particular barriers), the NSoA has assessed some further properties (numbered as

“SoA/no.”). Because the ES NSRs were selected on the basis that they were representative of the most exposed properties I will first use them for considering the issues which now arise.

68. In Section H there were 3 NSRs in the ES – ES14 Lakeside (a property on Lakeside backing on to the line); ES15 Wolvercote Primary School and ES16 St Peter’s Road (the large home immediately adjoining the line) as shown on ES fig 6.1N – O. By the time of the NSoA the numbering had changed but from it, I understand that for the most exposes houses in Lakeside, the unmitigated impact was up to 11dB ($L_{a_{eq}}$) and for St Peter’s Road, 17dB. Barriers were therefore obviously required. Fig 5.1 shows the extent of those barriers. They are provided in all areas where unmitigated impacts greater than 5dB were predicted and of a sufficient length to achieve the maximum possible attenuation to the NSR (as subject to detailed modelling). The result is that those barriers also provide attenuation for other properties.
69. After barriers, there are a number of houses which experience high residual effects – in the range of 11 – 17dB. Noise insulation will be provided to them. I will only consider the non-statutory – so those with residual impacts of 11 – 12dB. If RD is provided and on the 2.5dB attenuation assumption all would fall below 10dB impact and thus fall outside entitlement to noise insulation using the 10dB criteria. Several of those would also fall outside entitlement to noise insulation on the 82dB criteria³. All those houses would therefore experience a far worse noise environment internally with windows closed if RD was adopted and “significant” impacts to them would not be “avoided”. If these facts are right, then RD would not be “sufficient” with barriers to avoid significant impacts but barriers with noise insulation would.
70. Arup says that “all else being equal”, RD should still be applied. I agree but “all else” is not equal. Application of RD *removes* entitlement to noise insulation from a number of houses and makes their noise environment (windows closed) significantly worse. ARUP’s response to the disbenefit is that the same could be said of other mitigation measures being proposed - with the inference that one would always end up undertaking noise insulation in preference to other steps. That is to take the argument in isolation from the facts. Of course, C19 would not allow one to jump straight to noise insulation but where barriers are correctly chosen and RD would not be sufficient to mitigate the residual effects, I cannot understand why the disbenefit and the consequent failure to achieve the basic objective (avoid significant impacts) does not mean that noise insulation is required and RD is not.
71. I accept that there are two gaps in this logic:
 - a. On my understanding of the data, the application of this approach leaves one house experiencing 5db residual impact (with no entitlement to noise insulation). RD would benefit it and avoid significant noise impacts to it (and the BCR question may be triggered in respect of that house); and
 - b. The impact of open windows in summer. With noise insulated windows open, the benefit is reduced and RD would marginally (2.5db) improve the situation. If OCC consider that this scenario is more important than the periods when windows are likely to be closed then I accept it would be necessary to move on to the BCR question.

Issue B: BCR

³ Assuming as I do that the 2.5db attenuation would also apply to LA(max) as appears to be claimed.

72. I have not attempted to analyse the BCR information in detail. I have made general comments above.
73. In the RP balance, the actual benefits to be judged are “internal” because that is what the NVMP focusses on. Those benefits are to any house which would avoid a significant noise impact if RD is used or if the severity of the impact is reduced. This would include consideration of the open window point. The significance of the residual impacts would also be highly important – noting that the ES considered that less than 5db was not significant and the accepted norm that a 3db difference is at the margin of perceptibility. OCC would have to consider what importance they attach in planning terms to 2.5db attenuation of what is already a relatively minor impact. The Webtag values are one way of assessing those benefits but the methodology covers also much higher impacts.
74. On the disbenefits side, would be the fact that for a number of houses their noise environment would be worse. The costs of RD are broadly agreed.
75. I have seen nothing to suggest there is a modelling alternative to Webtag for present purposes; all parties agree it is an appropriate model to use as part of the RP exercise. Given the current circumstances I think the BCR is just of RD being applied in the context of the barriers already provided and any noise insulation already installed/committed to.
76. I accept that a BCR of 1 is not determinative. What BCR is appropriate on the facts is a matter for judgment. I can understand that a BCR of less than 1 may be justified where the impacts are very significant and unacceptable absent mitigation. Sometimes very expensive measures are required at the planning stage to make a scheme acceptable. That is not the situation here. OCC will therefore need to assess if a BCR of 0.35 for just RD indicates that RD is or is not RP in all the circumstances – including the severity of the residual impacts.

Summary of Advice

77. C19 and the NVMP has to be applied with judgment and in a commonsense way. I cannot read the NVMP as always requiring At Source first irrespective as to the facts, the context and the efficacy of the various options. Where At Source will not be sufficient to avoid significant impacts or where other measures are already being provided, then the NVMP does not require At Source if other measures will achieve the objectives.
78. On that approach, and given the current circumstances, NR’s approach to the application of the NVMP is permissible (and I think correct). On that approach, the potential role of RD for section H is very limited. This is before one gets to the RP/BCR question.
79. At the BCR stage, the issue is one for the judgment of OCC informed by, but not dictated to, by Webtag. The context, the severity of the impacts and the scale of the benefits and to how many people are the crucial elements. If, as I think is the correct approach, the BCR of RD is to be assessed from the starting point of the implemented Partial Approval, the RD serves to mitigate open window noise from those who have noise insulation and reduces one house from 5db to less than 3db; whilst removing entitlement to noise insulation from any who have not yet had it installed.

Train Number and Timing Assumptions

80. The NVMP defines the train number and timing assumptions (para 1.8 – 1.9). Para 1.10 provides that the noise mitigation will be designed based on those assumptions.

81. NR omitted some cross-country services from its assessment – see para 11 of Appx 24 to the June 2015 report to committee on vibration. Given that those services are not included in the NVMP, its approach appears justified and consistent with the approach at the Inquiry.
82. Objectors complain that NR has plans for major increases in usage of the line in the future (in addition to those assumed in phase 2B). There are two issues here: (1) is the growth in trains from phase 2B to be taken into account in current modelling; and (2) is further possible growth to be assessed under C19?
83. The answer to (1) is clearly yes. This is for the simple reason that that is what the NVMP provides. I cannot tell from table D2.7 of Annex D to the NSOA for Section H whether this has been done (although I have been told that the assessment assumes phase 2B).
84. The answer to (2) is more complex. The NVMP does not require the assessments to address any such future increase and defines the assumptions to be made. It therefore follows that in discharging C19, future possible growth in train numbers is not required to be modelled.
85. That, though, may not be the full answer. Given that no condition limiting the number of trains was imposed on the Permission, NR could increase the number of trains on the line without being in breach of any condition. However, the ES assessed the then predicted number of trains. It did not assess or propose mitigation for a far higher number of trains (and therefore potentially higher impacts). I will proceed on the basis that there may in the future be a “project” to increase the number of trains which does not require further engineering works. Under the current permission there would be no requirement to seek a further consent. However, there is an argument that if the effect of the “project” is to arguably cause additional significant environmental effects, NR could not carry it out without an ES. This issue though does not arise at this stage and I say nothing further on it.

David Forsdick QC

27th January 2017

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West Area Planning Committee

21st February 2017

Application Number: 16/03166/FUL

Decision Due by: 7th February 2017

Proposal: Installation of stone memorial.

Site Address: Junction Of Headington Road And Morrell Ave , Site Plan
Appendix 1

Ward: St Clement's Ward

Agent: Mr Colin Carritt

Applicant: Mr Jim Jump

Called-in to Committee: Cllrs Tanner Kennedy. Fry and Taylor on the basis that it is a controversial application and should be considered in public. Also called-in by Cllrs Wade, Wilkinson, Goff, Fooks and Landell Mills on the basis of size, design, materials and impact on views into and out of Oxford.

Recommendation:

It is recommended that West Area Planning Committee approve the proposed memorial stone in this location, for the reason(s) set out below and subject to and including conditions listed.

Reasons for Approval

1. The proposed memorial stone is considered appropriate in size and form and location re-purposing an open area of grass between two roads. It would not significantly harm the recognised significant views into and out of the respective St Clements and Iffley Road and Headington Conservation Areas. It would not harm views to protected Oxford skyline as set out in the View Cones of Oxford. Neither would it harm the setting of the nearby listed buildings in London Place. Any potential harm would be less than substantial, however it is considered there are overriding public benefits from the proposal which would outweigh any harm in this case. As such it is considered in accordance with Policies CP1, CP8, CP10, HE3 and HE7 of the Oxford Local Plan 2001-2016, Policy CS18 of the Core Strategy and the NPPF.

Conditions:

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials as approved
4. Landscape plan - as approved
5. Landscape - carry out by completion

6. Benches – further details required
7. Tree Protection Plan – details required

Main Local Plan Policies:

Oxford Local Plan 2001-2016 (OLP)

CP1 - Development Proposals

CP8 - Design Development to Relate to its Context

CP10 - Siting Development to Meet Functional Needs

HE2 - Archaeology

HE3 - Listed Buildings and Their Setting

HE7 - Conservation Areas

HE10 – View Cones of Oxford

NE15 – Loss of Trees and Hedgerows

NE16 – Protected Trees

Core Strategy (CS)

CS18_ - Urban design, town character, historic environment

CS19_ - Community safety

Other Material Considerations:

- National Planning Policy Framework
- Planning Practice Guidance
- Statutory duties set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation areas) Act 1990
- This application is in the St Clements and Iffley Road Conservation Area and adjacent to the Headington Conservation Area.

Relevant Site History:

81/00238/NOH: Outline application for erection of ox statue: **Approved 22/04/1981**

Other relevant planning history:

14/01888/FUL: Installation of memorial stone, Bonn Square. **Withdrawn 02.10.2015.**

15/02859/FUL: Installation of memorial stone, St Giles Parish Church, Woodstock Road, **Withdrawn 26.04.2016.**

Representations Received:

A large number of representations of both objection and support have been received and can be summarised as follows. Note that they are in no particular order. Political or Religious comments made have not been included except in very general terms as this is not a material planning consideration:

Objection:

London Place Residents' Association, 132 Morrell Avenue, Oxford Brookes

University Headington, 25 Woodstock Road, 28 Polstead Road, 46 Tree Lane, 51 Weldon Road, 356 Banbury Road, Friends of South Park, 2 Morrell Avenue, Flat F, 66 Nuffield Rd, 8 Thames Street, 10 Apsley Road, Nos 7, 9, 16, 24, 25 London Place, 179 Morrell Avenue, 45 East St Helen Street, 4, Canterbury Rd, 8 Heathfield Rd Eastleigh, 3 Southdale Road, Grandpont House, Folly Bridge, Abingdon Road, 11 Divinity Road, 1, Mandelbrote Drive, 189, 197 Morrell Avenue, 39 Rowland Hill Court Osney Lane, 67 Middle Way, 7a Mortimer Road, 15A St Clement's Street, 3 Woodstock Close, 8 Plantation Rd, Oxford Preservation Trust, Oxford Architectural and Historical Soc:

- Inappropriate size, design, form and materials
- Inappropriate location: too prominent, very intrusive and dominating
- Harmful to the character of the conservation area and views into the City from South Park (protected view within View Cones); very prominent in the middle ground of the view.
- Sit in front of park and dominate views of South Park from St Clements, visual barrier and unrelated alien structure
- Loss of green space and expansion of hard landscaping
- Very ugly image of a clenched fist crushing a scorpion is aggressive towards the memory the victims of conflict
- Imagery should be more balanced to commemorate all those involved in the conflict.
- The lettering has neither elegance nor gravitas; The plaque on the rear which actually conveys the main message does not relate well to the shape of the stone and looks like a stuck-on afterthought. The whole thing lacks visual coherence. The quote from Day Lewis is the same as on the South Bank memorial in London, so we have missed the opportunity for something that speaks to Oxford.
- Granite does not lend itself to craft techniques, but sandblasted using an industrial machine. It will therefore lack any sculptural quality or beauty
- Much too controversially ideological in character and divisive proposal
- Design should be fundamentally changed so that it is no longer a partisan, one-sided insult to the victims of a distant war.
- It should honour both sides of the conflict in a spirit of reconciliation and forgiveness and therefore the political symbols such as the red star be omitted.
- Detract from Eric Gill commemorative monolith stone competing with its setting; refused permission to be erected in this same proposed location, would downgrade Gills significance
- No historical connection to St Clements and will actively detract from the character of the area.
- It will block views currently uninterrupted historic views from Grade II Listed London Place
- A local stone would be more in keeping within the conservation area; black granite unsympathetic and harsh, as is its texture
- 'lump stuck at bottom of hill' like a sore thumb
- Existing railings are thin and sinuous but memorial would disrupt views to top of South Park
- Suggest Memorial is moved back against the South Park fence, possibly set into the verge between the cycle path and the railings and it will also have the

- backdrop of the trees along the edge of South Park.
- Without exception the London Place residents object strongly to the provision of benches, as if provided they will almost certainly be used as a congregation and focal point for noisy late night / early morning drinkers often resulting in even more anti-social behaviour which is common in the area, (ASB could include the possible defacing of the memorial)
 - Regarding floral landscaping the London Place residents have no objection to this and residents and others have indeed been working with the council to fund a sustainable landscaping scheme for the whole of the area (not just the area in front of the proposed memorial site.) - As the landscaping needs to be comprehensive we suggest this is not considered part of this application but forms another later application
 - Although war memorials are often quite emotive, none of the London Place residents have objected to the memorial in principle
 - Inappropriate to commemorate the Spanish Civil War;
 - A precedent for other similar memorials in future
 - Frideswide Square would be a far more appropriate siting or small green area at Park Town on Banbury Rd
 - The area is already a magnet for antisocial behaviour, and benches would make the situation much worse, resulting in more broken glass and nights.
 - The Council is always reminding its citizens it is very short of funds and cuts to public services are essential, in this light a contribution to this kind of memorial is totally unsuitable.

Support:

The Retreat, Banbury Road Woodstock, 45 Anson Road London, 15 Walton St, 42 Acacia Avenue, 8 Margaret Road, 1,Queens Road, Banbury, 30 Hawthorn Avenue, 45 Henry Road, 70 Old Road Headington, Flat 2,13 St Ebbes Street, Ruskin Hall Dunstan Rd, 5 Emperor Gardens Blackbird Leys, 23 Olde Farm Drive Blackwater Camberley, 48 Somerton Avenue, Southampton, 21, Tower Hill Witney, 70 Old Road, Priory Dene Hudson St Deddington, 24 Boulter Street, 1 Swallow Close Greater Leys, 14 Park Street Bladon Woodstock, 26 , 106 Frenchay Road, 3 Harriers View Banbury, 2 Owlwood Close Little Hulton Manchester, 44 Hill Top Road, 3 Campbells Close Woodstock, 6 Meadow Walk Woodstock, Station Road Farm Harpham Driffield, 17 Cumnor Rise Road

- Welcome feature that will enhance the landscape
- The memorial is of outstanding design and the proposers are to be congratulated.
- Not in any way an eyesore or adverse in any way to the environment or character of the area. It is neither anti-Catholic, nor too big nor too ugly, nor is it offensive, nor will it spoil the character of the area, nor is it to be made of the wrong materials
- Proposed monument looks beautiful
- Would not spoil view to 'dreaming spires'. Siting the memorial in the lower segment of the grass triangle does not interrupt the skyline of the protected "cone" and at 1.8 m high it provides no greater interruption to the 'parkscape' than a family group pausing on their way to admire the wider view of the

Oxford skyline.

- Enhance what has been a windswept and barren space of land for far too long
- Suggested place for the monument at the bottom of Morrell Avenue would provide a welcome focus on a corner that can sometimes seem rather desolate.
- The memorial will be visible without being obtrusive.
- Memorial will be a significant work of public art, adding to Headington's aesthetic and culture and the area's visual and spatial interest, and more generally will add to the city's heritage as a whole
- Provide a modest focus in a dog-haunted vacant patch
- Look at Science Oxford building, look at the funfairs and bouncy castles that fill South Park half the year, or the surreal exercise machines that litter Headington Hill Park, or the invasive housing built within its arboretum.
- Evoke a proud Oxford role in a tragic conflict.
- Add to the aesthetics of the landscape, whilst commemorating events of great historical significance. This would be a very welcome addition to the site. Gateway location into Oxford is appropriate and superb;
- It is important to commemorate the heroic acts of ordinary people. Like other martyrs commemorated in Oxford, these men deserve a memorial
- It is fitting that a memorial commemorating the men and women from Oxfordshire who went to Spain and the proposed location is ideal.
- It will enhance what has been a barren area and will help in landscaping the area and will not detract from other landmarks.
- Good use of visible and much-used public space to commemorate events which brought many Oxford people together and reflect well on Oxford's openness to, and solidarity with, people in other parts of the world.
- It is a place where lots of young people, both British and foreign, often go by. It would be very educational for them,
- Such a memorial will allow visitors to tell their own stories to their children and to continue curiosity in the brigadiers who left from Oxford
- Was it Churchill who once said that a nation who forgets its past is condemned to repeat it? We must remember our past, each in our own way, in an open and respectful manner. I hope that this memorial can allow Oxford residents to consider their past in the World and in the present too
- will fill a glaring omission in the City's history; surprise and saddened one was not erected years ago

Statutory Consultees:

Natural England: no comment to make

Highways Authority: No objection: The proposed stone memorial is on highway land but well away from the carriageway and so the County Council has no concerns from a road safety perspective. Given it is sited away from any carriageway it is also unlikely to impact on any future potential highway improvement schemes in the area, however, if necessary the memorial may have to be relocated to accommodate future works.

Officers Assessment:

Background:

1. A proposal for a memorial stone in Bonn Square to commemorate those who died in the Spanish Civil War was submitted in 2014. This application was recommended for refusal by Officers on the grounds that its height, width, depth, design, material and location, was considered inappropriate in size and would appear visually intrusive and overly-dominant in Bonn Square. In addition it would be harmful to the setting of the listed building No.1 New Inn Hall Street, the Grade II listed Tirah Memorial and the Central (city and University) Conservation Area. Further it would result in the cluttering of the public open space and due to its location close to the end wall of No.1 New Inn Hall Street would increase the feeling of insecurity and reduce natural surveillance, leading to an area conducive to littering and potential for crime.
2. Officers put the application to Committee for a decision given their recommendation to refuse and the potentially sensitive subject matter. Committee resolved to defer the application to allow the proposal to be reviewed by the Oxford Design Review Panel, their advice is attached at **Appendix 2**.
3. Further to the review, the Applicant took on board their advice and held a further competition incorporating their advice in to the competition Brief to find a new artist. Meanwhile further discussions about the location of the memorial in Bonn Square revealed that there were significant issues arising from attaching it to the rubble stone wall of No.1 New Inn Hall Street. A new location in St Giles was found and the application was therefore withdrawn and re-submitted in the new location.
4. A second application was subsequently submitted for this memorial in St Giles (15/02689/FUL refers). During this period the height of the stone was reduced to 1.8m and the design of the memorial adjusted so that the text that was previously on a brass plaque beneath the stone would be etched onto the rear and the shape which was previously regular became irregular. Issues surrounding the siting of the memorial resulted in the application being withdrawn.

Site Description and Proposal:

5. The current application seeks to erect the memorial within the grassed area which lies in the triangle of land which sits in between the London Road and Morrell Avenue and in front of the South Park (**appendix 1**)
6. The memorial stone commemorates those from Oxford who died in the Spanish Civil War. Following the advice from ODRP and the Applicant's Brief, the winning Artist has taken reference from two cap badges of the time to inform the form and image of the memorial. The plans show the stone

measuring 1.8m high (max), 1m wide (max), 30cm deep and made from grey granite (as in the previous applications), with a rough-hewn, irregular shape. On the front face (facing St Clements) in relief is a man's fist holding a scorpion which would be in bronze resin, above would be the cap badge of the International Brigade using a red resin pigment. The fist signifies 'hope' and the scorpion 'defiance'. The names of the 6 men who died would be picked out in the grey granite using a black paint. On the rear of the stone is other text on a mounted brass plaque. A resin bonded footpath would be provided from the existing tarmac footpath between the two roads, to and around the memorial itself. Benches may be erected, subject to funding.

7. It should be noted that it is not the role of the Planning Officer to comment on the acceptability or otherwise of commemorating a particular conflict or War, in this case the Spanish Civil War. Therefore Officers consider the main determining issues are:
 - Principle
 - Location, Form & Design and Impact Heritage Assets
 - Trees
 - Highways

Principle of Development:

8. Policy CP1 of the Oxford Local Plan (OLP) applies to all development and expects all proposals to enhance the environment. Development must show a high standard of design, including landscape treatment, using high quality materials that respects the character and appearance of the area and that as appropriate to the nature of the development, the site and its surroundings. Furthermore development must be acceptable in respect of access, parking, highway safety, and where relevant, retain and protect important landscape and ecological features, important open spaces of recreational or amenity value or both; and preserve or enhance the special character and setting of listed buildings and conservation areas. The supporting text to Policy CP14 of the OLP relating to the provision of public art is relevant here, although the actual wording of the Policy relates to provision of public art from new major development. It states that public art, integrated with buildings and landscape, is an important cultural asset, contributing to public enjoyment of Oxford. It can take a wide variety of forms, such as paintings, sculpture, murals, memorials, street furniture, and facilities for performance arts or cultural events. Proposed public art should be accessible for public enjoyment, enhance and enliven the environment, and contribute to the cultural identity of its location. In general the Council seeks public art that is original, stimulating and of lasting value to both the development and the cultural life of Oxford.
9. It is therefore considered that a new memorial which is of a high quality design and materials which is appropriate to its siting and context, that preserves and enhances important heritage assets and which would enliven Oxford's cultural heritage would be acceptable in principle.

Location, Form, Design and Impact on Heritage Assets:

10. Policies CS18 of the Core Strategy (CS) and Policies CP8 and CP9 of the OLP collectively seek to inform the decision making process and building upon the requirement in the NPPF for good design. Without being overly prescriptive the policies emphasise the importance of new development fitting well within its context with high quality architecture and appropriate building height, design, massing and materials creating a sense of place and identity.
11. In respect specifically to the historic environment, CS18 of the CS states that development must respond positively to the historic environment but not result in the loss or damage to important historic features or their settings. Policy HE7 of the OLP further adds that the special character and appearance of the conservation area should be preserved with Policy HE3 stating that planning permission will only be granted for development that respects the character of the surrounding of listed buildings and have due regard for their setting. HE10 seeks to retain significant views within Oxford and permission will not be granted for any structures proposed within areas of special importance for the preservation of views within Oxford ; the view cones.
12. The NPPF reiterates the Government's commitment to the historic environment and its heritage assets which should be conserved and enjoyed for the quality of life they bring to this and future generations. It emphasises that the historic environment is a finite and irreplaceable resource and the conservation of heritage assets should take a high priority. Local Planning Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets in considering a proposal and also desirability of new development making a positive contribution to local character and distinctiveness. The NPPF encourages local planning authorities to look for opportunities to better reveal or enhance heritage assets and their settings and states that proposals that do make a positive contribution should be treated favourably.
13. Published guidance by Historic England (formerly English Heritage) in *The Setting of Heritage Assets*, October 2011 provides a methodology for understanding the setting of a heritage asset and how it contributes to the heritage significance of that asset and explains how to assess the impact of development. English Heritage explains that the setting of a heritage asset is the surroundings in which it is experienced; and that the setting is not fixed and may change as the surrounding context changes
14. The site lies within the St Clement's and Iffley Road Conservation Area (St.C&ICA) and adjacent to the Headington Conservation Area (HCA). The triangle of land between London Road and Morrell Avenue within which the proposed memorial would be sited is an open grassed area with mature trees a long Morrell avenue side and two new trees within it. The remains of disused flower beds are visible and grassed over. To the east of the triangle is a connecting footpath between the roads and beyond the railings of South Park. Elsewhere the triangle is bordered by footpaths. To the south of the site are the houses along Morrell Avenue and to the north the Grade II listed

terrace of houses on the north side of St Clement's at London Place, constructed in the early part of the 19th century. These properties are separated by two footpaths, mature trees, raised flower beds and verge. The land is owned by the City Council but maintained as highway by the County Council.

15. The St Clement's and Iffley Road CA Appraisal states that a key feature of St Clement's is that St Clement's Street is more enclosed near the Plain, gradually opening out towards South Park and that views out of St Clement's Street/London Place to Headington Hill and South Park is a key view. The Headington CA Appraisal acknowledges a character feature of this CA are buildings and open space given or taken into public ownership to conserve their contribution to the quality of the city's environment as part of the development of the conservation movement in the early 20th century, and South Park, Oxford's largest public park, contributes to this character feature. The Headington CA is unusual in the highly sensitive relationship it has with its setting. The special historic interest of the conservation area includes the ability to look out from a number of viewpoints over the city of Oxford. This relationship has influenced development of the area in the past; including the development of large suburban villas on the crest of the hill in the late 19th and early 20th centuries and the provision of public green open spaces during the 20th century. The importance of a number of these views has been recognised through the designation of 'view cones' by the City Council where they are seen from public places and South Park forms one of these 'view cones'.
16. South Park provides significant views of the city of Oxford from several points within the park, changing with increased distance from the city centre and increased elevation. Whilst mature trees currently block the view from Headington Road, this is the closest available alternative to the view of Oxford from Headington Hill painted by J.M. W. Turner, among others over 400 years to illustrate the landscape of Oxford. The view becomes broader as the hill is ascended and more of the roofscape of St Clement's and the city centre is revealed. This view also changes with the seasons as the tree canopies changes, within and outside the park, change with the seasons also.

Location, Form and Design:

17. The size, form and design of the memorial are all interlinked. The memorial is 1.8m in height (reduced from the Bonn Sq proposal of 2m), 1m wide and 30cm deep. In terms of form, the proposed memorial is again an upright stone with an irregular shape that would be rough-hewn. This is in contrast to the regular tombstone smooth stone proposed in Bonn Sq. Officers have explored with the Applicant possibilities of making the memorial more sculptural and designed in the context of being viewed 360 degrees. The IBMT are a charitable trust and funds could not stretch to a sculptural form, however, the stone has been designed to be viewed from all sides.
18. In terms of the design of the image on the stone, the ODRP advised a simpler bolder design distinct from that of the Tirah memorial when considering the memorial in the context of Bonn Sq. See **Appendix 2** for their advice in full.

They suggested referring to 1930's posters of the time and using colour. The commissioned artist has taken reference from a cap badge for the image of the fist and scorpion, and intends to use bronze and red pigment resin to add interest and colour. The Applicant under the previous application stated that the imagery symbolises hope and defiance, and not aggression. The names of the men are depicted across the stone in black and to be more legible. In terms of materiality, the use of granite is a reference back to the geology of Spain.

19. In terms of location the siting has been directed by several existing features; an existing young tree planted centrally within the triangle, underground services and the old flower beds. The interests of highway safety and maintenance were also taken on board in consultation with the Highways Authority. Finally, the ability within the funding raised to provide a footpath to the memorial from the existing footpath to the east and an area for seating around it has meant that it could not be sited further within the site towards St Clements.

Heritage Assets:

20. Having reviewed the proposal Conservation Officers consider that the siting of the stone as proposed would obstruct these important views both out of the city, along St Clements to South Park, and into the City from South Park and its celebrated skyline. Whilst they acknowledge that the memorial stone would sit in the bottom section of the view from South Park, and as such would not break into the profile of the skyline, it would in their opinion be a specifically identifiable object of not inconsiderable size placed centrally within the view from the top of the park and clearly becoming more evident on moving closer to the city and the site itself. They consider it would be a harmful intrusion, centrally placed in views of the foreground townscape, including the important group of C19 listed buildings of London Place which makes an important contribution to and provides a context for the significant, historically recorded skyline as viewed from the South Park.
21. Furthermore, they consider that the siting of the memorial stone, as currently proposed would place it directly in the centre of the important view towards Headington from St Clements and would be regrettable. The view along St Clement's Road eastward, the uninterrupted view of South Park, framed and directed by the tight, close buildings either side of the street is extremely significant. It describes the change from the hustle and bustle of the city and the tight-knit urban grain of the historically working class area of St Clement's to the open, green of South Park, given to the City for the benefit of the citizens, a valuable open space for recreation. They consider that the existing unsightly structures within the view (e.g. lampposts, railings etc.) are themselves clutter that is harmful to the CA and the design of the memorial, its size, solidity and the colour of the stone would mean that it would be impossible to dismiss as simply the background clutter of street structures. Furthermore the existing trees at the bottom nose of the park are deciduous trees and therefore their potential to screen the memorial stone in winter views would be limited and in maturing, their canopies would be raised in a

similar manner to those of the already mature trees on Morrell Avenue and indeed of all parkland trees, and therefore the Memorial would still be visible.

22. They acknowledge that views may be subject to change, the design of new elements proposed to sit alongside historic elements of townscape, buildings and spaces, needs to be of the highest quality for them not to harm the significant views and the special character and appearance of heritage assets that are identified as being important. In their opinion the design of this proposed memorial is not of the absolute highest quality in comparison to the acknowledged importance of the townscape in which it is proposed to sit and would result in harm to designated heritages assets.
23. However, they suggest that the memorial could be re-sited at the top, southern point of the grassed triangle (adjacent to Morrell Ave) in order to mitigate the visual impact of the memorial on the views both in and out of the conservation areas and in the identified view cone. The benefits of such a siting would be multiple. It would enable a more rational approach to the creation of a “paved” or hard area at the base of the memorial (the grassed area at the “nose” could be simply replaced with an appropriate, agreed hard surfacing. This would simplify maintenance of the remaining area of grass. The memorial stone would be sited across the narrow point of the grassed triangle allowing it appear dominant by filling that space and enabling people gathering to celebrate its purpose to have a more focussed view without the distraction of a vast open space behind. Finally, it would provide some mitigation for the harm that it would have on the identified heritage assets and on the much valued historic environment of the city.

Consideration:

24. The comments of neighbours and the advice of Conservation Officers have been considered carefully in coming to a view of the proposal. It is a well-established fact that “art is in the eye of the beholder, and everyone will have their own interpretation” (E.A. Bucchianeri, Brushstrokes of a Gadfly) and it is acknowledged that the design of the imagery on the memorial would not be to all tastes. However what can be said is that it does reflect the period/era taken from memorabilia of the time of the conflict and accords in that respect with the advice of ODRP. Whilst a more sculptural memorial may have been preferable, the form proposed is not considered unacceptable and is an improvement of the tombstone style memorial proposed for Bonn Sq. A lighter grey granite is proposed and the bronzed resin image would not be an overly reflective detail this background. The only colour would be provided only by the red International Brigade symbol as seen from the front. From the rear it would be a bronze plaque on grey granite. The historical significance of the granite is understood and whilst granite is not a typical stone seen in Oxford, it is not considered unduly inappropriate, adding to the other statues, memorials and art works in the City which can be found in a range of materials and form from limestone through to bronze, bronzed resin and powder coated aluminium. The benefits of this material is that is hard wearing and therefore would be likely to result in less maintenance issues and a grey colour would recede into views as opposed to a lighter stone e.g. limestone which would reflect sunlight and appear more visually apparent.

25. This triangular piece of land has remained unused for a while now, since the use of the flower beds ceased. It is considered that the land would be effectively re-purposed and utilised by placing a memorial stone here, rather than appearing as a left over piece of grass between the convergence of two roads. Indeed planning permission was granted in 1981 for a statue of an Ox on this land and strengthens officers' view that this would be a suitable location for a piece of art work or memorial. The memorial at 1.8m high, 1m wide and 30cm deep is considered appropriately proportioned in size in relation to its setting within this open area. In its proposed location it would be given room to sit within the space and not detract in terms of size and form from surrounding buildings or existing trees, particularly mature trees.
26. The potential harm to the views into and out of the Conservation Areas by siting the memorial stone almost centrally within this triangular piece of land is acknowledged. The view from South Park towards St Clements is kinetic and changes as you move through the park in response to the size of the park, the varying slope of the hill and the location of trees within it. However it is considered that in fact the memorial would be very difficult to pinpoint in views towards Oxford from the upper levels of South Park due to the varying slope of the hill downwards towards St Clements and the trees located within the Park and in particular at the bottom of the park. It would only become more visible once you reached midway down the Park towards St Clements and even then it would be in the lower foreground and separated by the existing and new trees planted at the bottom of the park and the railings. The grey granite would mean that the memorial would recede in these views, even in winter months. In summer months it would not be visible at all from the lower slopes of the parks because of the trees. Given the array of street furniture and other mature trees within the entire area of London Place, the London Road, grassed triangle and Morrell Avenue; it is considered that the memorial would read as part of the street. However, rather than adding to the perceived furniture clutter, the memorial given its form and siting within this open area in front of the Park would also read as a structure in its own right and a focal point drawing one's eye down the hill and through to St Clements and London Place at the bottom, and therefore seen as a positive change to the setting of this part of the view. It would not impact on the protected skyline of Oxford from this view at all. It is therefore considered on balance that any potential harm to the setting of the HCA or its protected view from South Park would be less than substantial and that the proposal would offer a different but not diminished experience of the heritage assets in the area and their context. It would in no way harm the protect skyline view as set out in the view cones under Policy HE10 of the OLP.
27. In relation to the potential harm to the significant view from St Clements opening up to the open space of South Park behind it is considered that due to its size, form and location within this open area in front of the Park that it would also read as a structure in its own right and act as a focal point drawing one's eye through this space to the open parkland beyond. At 1.8m height and approximately 10m forward of the South Park railings it would appear a similar height to the park railings behind (which are also approximately 1.8m in

height). It is therefore considered that it would not be of significant size within this open setting of the CA such that it would significantly harm the opening up of views at the top end of St Clements or the appreciation of the openness or South Park beyond. Again, it is therefore considered on balance that it would be seen as a positive change to the setting of this part of the view and would offer a different but not diminished experience of the heritage assets in the area and their context. As such any potential harm to the setting of the view from St Clements towards South Park would be less than substantial.

28. An alternative siting of the memorial to the far southern corner with Morrell Avenue has been suggested allowing it appear dominant by filling that space and enabling people gathering to celebrate its purpose to have a more focussed view without the distraction of a vast open space behind. However, it is considered that in this location the stone would conflict with the line of existing mature trees down Morrell Avenue on this side of the road which would not allow it to appear dominant in this location. It would appear equally dominant in the suggested location. It would also be sited within the root zone of these mature protected trees which could result in potential harm to their roots through the removal of grass and increase in hard surfacing, together with potential issues of the actual installation of the foundations within this zone. Whilst it may aid maintenance of the land, it is considered that on balance it would be harmful to the protected trees and would not give the memorial suitable setting and allow it to be properly appreciated in the way that is it intended.
29. The proposal also suggests the potential for benches around the memorial to allow people to sit. Whilst the details of these benches have not been provided at this stage, the principle of benches adjacent to the memorial is considered acceptable. Again the spaciousness of the site and its setting would amply accommodate benches without causing additional harm to the setting of the listed buildings and Conservation Areas or their significant views, as set out above. Furthermore they would provide further public benefit to the re-purposing of this piece of land as a place to sit and contemplate. Further details could be secured by condition should Committee approve the application.
30. Concern has been raised that the memorial would harm the setting of the Eric Gill monolith stone that commemorates the acquisition of South Park by Oxford Preservation Trust in 1932. It is observed that the proposed memorial would be some distance away from this existing memorial, which sits close to the traffic lights at the bottom of London Road. Furthermore, in many ways the form and rough texture of the existing Gill memorial is similar to that proposed, although the materials are different. Given the distance between the two memorials it is considered that there would no harm to the appreciation of this commemorative stone. Whether this stone would be moved or listed in future is not a material consideration.

Public benefits:

31. Development that causes harm to a heritage asset or its setting should be avoided unless there is a public benefit to outweigh that harm. The NPPF

states that, *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification'*.

32. If a proposal is considered to cause less than substantial harm, then this would need to be weighed against the public benefits of the proposal. Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the NPPF. Planning Practice Guidance advises that it is the degree of harm to the assets significance rather than the scale of the development that is to be assessed.
33. As set out elsewhere in this report, this triangular piece of land has remained unused for a while now, since the use of the flower beds ceased. It is considered that the land would be effectively re-purposed and utilised by placing a memorial stone here, in the middle of a piece of open space between the two roads. It would allow the public to sit and contemplate and would provide the respectful setting that befits a memorial commemorating the dead (under whatever circumstances). It would create a public focal point within an open area that currently has no real purpose other than grass and is not utilised at all. Whilst the circumstances of the Spanish Civil War are not a planning consideration it is understood that people living with in East Oxford had strong ties with this conflict and therefore a memorial in this location would have closer ties to this part of Oxford and derive public benefit from it. The relative scale of harm to these designated heritage assets (the setting of the listed buildings, setting of the CA's and their significant views) is considered less than substantial and would on balance be sufficiently outweighed by this public benefit derived by the memorial in this location in this case.
34. In conclusion therefore officers consider that on balance the proposed memorial stone in this location would result in less than substantial harm to the character of the St Clements and Iffley Road and Headington Conservation Areas and public benefit of re-purposing land that is currently under-utilised for the purposes of a memorial thereby allowing the setting to the CA to be appreciated in a different and more positive way than currently, outweigh this potential harm. Neither is it is considered harmful to the setting of the Grade II properties on London Place. As such it would accord with Policies CP1, CP8, CP10, HE3 and HE7 of the Oxford Local Plan 2001-2016, Policy CS18 of the Core Strategy and the NPPF.

Trees:

35. The memorial would be sited near to an existing young tree, which at this stage of its growth would have a relatively small root zone, normally equivalent to the canopy spread. It is considered that the memorial would be sufficiently

distanced from the tree so as not to adversely affect the future growth of the tree or its root zone and the proposal accords with Policies NE15 and NE16 of the OLP. A condition requiring tree protection measures could be imposed to ensure the tree is not harmed during the installation.

Highways:

36. The proposed siting of the memorial within the grassed area is set some distance in from both the carriageways and footpaths of London Road and Morrell Avenue. The Highways Authority has raised no objection in terms of highway safety and comments that it is unlikely to impact on any future potential highway improvement schemes in the area. The proposal accords with Policy CP1 of the OLP.

Conclusion:

37. The proposed memorial stone is considered appropriate in size, materials, form and location re-purposing an open area of grass between two roads. It would not significantly harm the recognised significant views in to and out of the respective St Clements and Iffley Road and Headington Conservation Areas. It would not harm views to protected Oxford skyline as set out in the View Cones of Oxford. Neither would it harm the setting of the nearby listed buildings in London Place. Any potential harm would be less than substantial, however it is considered there are overriding public benefits from the proposal which would outweigh any harm in this case. There would be no adverse impact on trees or the highway. As such it is considered in accordance with Policies CP1, CP8, CP10, HE3, HE7 and HE10 of the Oxford Local Plan 2001-2016, Policy CS18 of the Core Strategy and the NPPF.

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 approve, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 16/03166/FUL

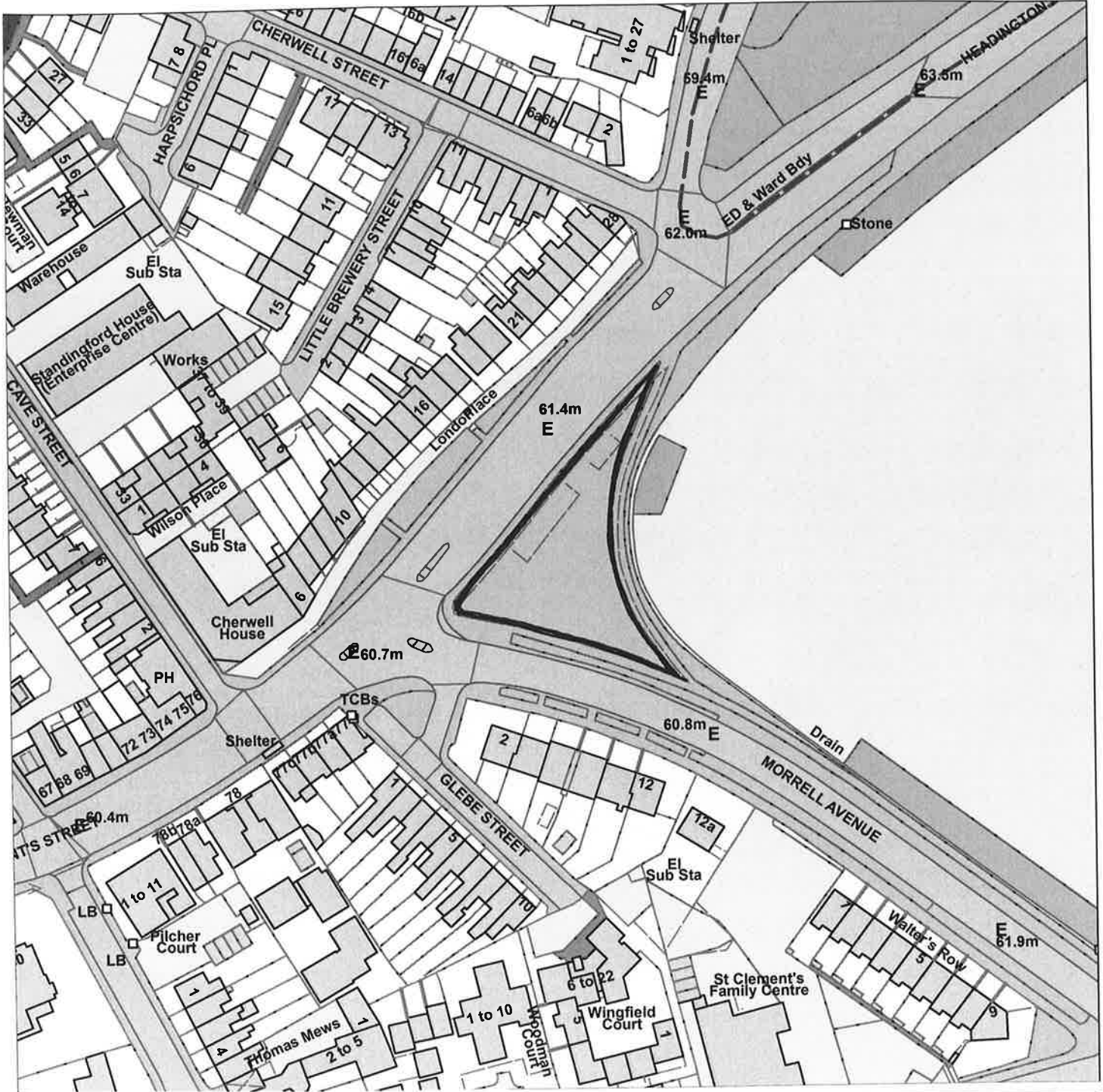
Contact Officer: Felicity Byrne

Extension: 2159

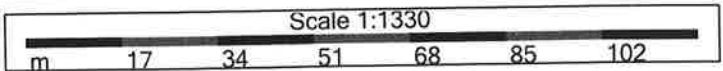
Date: 6th February 2017

Appendix 1

16/03166/FUL land at the junction of London Rd and Headington Rd



1:1330



Organisation	Oxford City Council
Department	City Development
Comments	Not Set
Date	10 February 2017
SLA Number	100019348

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20 November 2014

Colin Carritt
International Brigade Memorial Trust
6 Stonells Road
London
SW11 6HQ

Our reference: DCC/0652

Oxford City Council: Spanish Civil War Memorial, Bonn Square

Dear Colin Carritt,

Thank you for presenting to Cabe's review meeting on 6 November 2014. We are pleased to review this significant proposal to commemorate Britain's contribution to the Spanish Civil War. The ambition to educate and engage people in Oxford about the Spanish Civil War, and the good spirit and faith in which this proposal has been developed and presented are highly commendable. A physical memorial in Bonn Square is an appropriate way to commemorate the volunteers of the Spanish Civil War. However, the current memorial neither captures the essence of the Spanish Civil War and feeling of loss, nor does it fit in with its prominent location in Oxford. We encourage the Memorial Trust to continue to persist with this planning application as it is indeed a worthwhile cause, and urge Oxford City Council to develop a citywide strategy to inform the placement and design of artworks in public space.

Concept

A strong, clear message is needed to engage the local community and fuel a sense of curiosity across all ages about the Spanish Civil War and the invaluable contribution of people from Oxford. However, the current, overall message is somewhat confusing. It is unclear whether the memorial is to mark the lives of the six people from Oxford who participated in the war or all the volunteers from across the UK. Highlighting the role the men and women from Oxford had to play in the war will help to justify its location in Bonn Square and relate more strongly to Oxford's local history. Once the message is defined, we urge the Memorial Trust to undertake a rigorous procurement process, such as a design competition, to ensure that the most suitable design expert and solution are selected.

Location

A strategy for artworks in public space across the city is urgently needed. We urge Oxford City Council to identify potential sites for artworks and set clear parameters to ensure proposed artworks achieve high design quality and



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have a strong relationship to their environment. Such a strategy can help the local community, charitable groups and artisans to be stronger patrons of public space.

We do not support the principle of a freestanding object in the square as it will restrict surrounding uses and future development of this space, and make the square feel more cluttered. Placing the memorial at the north-east corner of the square adjacent to the listed building seems ambiguous and feels apologetic. We suggest exploring whether other physical expressions, such as a plaque, and/or alternative locations might better relay the memory and message of the Spanish Civil War. A memorial that is off the ground and set into the wall, such as a plaque, will be easy to erect, be maintained and protected from vandalism. Integrated lighting will give it more prominence in the square. Alternatively, incorporating the plaque into the ground floor of the square might help to be successful. As the future plans for Westgate Centre enhance the role of Bonn Square in the city, we suggest exploring how the memorial can help to link Bonn Square with the library in the proposed Westgate Centre, via a physical and/or digital platform. The integrated QR Code on the memorial, for example, is useful as it helps to engage younger audiences and could direct them to reference material in the library. We also suggest exploring with the city council ideas for incorporating the Spanish Civil War memorial into the ground works, or other works, associated with the redeveloped Westgate Centre.

Design approach

We feel that the current tombstone-like shape and design approach is difficult to justify. A simpler and bolder design will more readily engage passersby of different ages and will also establish a stronger distinction between the proposed Spanish Civil War memorial and the existing Tirah memorial. We commend the idea of referring to war posters of the 1930s to inform the design of the memorial, but we do not feel that the gripping images and captivating text of these posters have been reflected in the design. The lengthy text and the small font size greatly reduce its impact and legibility; this is further exaggerated by the placement of the text at the bottom of the memorial which makes reading difficult. The unknown figure undermines the known men and women that have fought in the war, and is also likely to be too politically suggestive. Whilst we welcome the use of granite and its relationship to the geology of Spain, there is more potential to explore alternative colours and textures. We recommend making the Spanish Civil War memorial distinct from the Tirah memorial in its shape, scale, texture and materiality to ensure that the value and messages of both memorials resonate in the square. All these issues can be explored as a result of the careful procurement process for the design of the memorial.

Yours sincerely



Victoria Lee

Cabe Advisor, Design Council

Email Victoria.Lee@designcouncil.org.uk

Tel +44(0)20 7420 5244



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cc (by email only)

John Haywood	International Brigade Memorial Trust
Frank Casey	International Brigade Memorial Trust
Felicity Byrne	Oxford City Council

Review process

Following discussions with the design team and the city council, the scheme was reviewed on 6 November 2014 by Joanna van Heyningen (chair), Claire Wright, Jessica Byrne-Daniel and Mark Swenarton. These comments supersede any views we may have expressed previously.

Confidentiality

Since the scheme is not yet the subject of a planning application, the advice contained in this letter is offered in confidence, on condition that we are kept informed of the progress of the project, including when it becomes the subject of a planning application. We may share confidential letters with our affiliated panels only in cases where an affiliated panel is taking on a scheme that we have previously reviewed. We reserve the right to make our views known should the views contained in this letter be made public in whole or in part (either accurately or inaccurately). If you do not require our views to be kept confidential, please write to designreview@designcouncil.org.uk.



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Minutes of a meeting of the WEST AREA PLANNING COMMITTEE on Tuesday 24 January 2017

www.oxford.gov.uk



Committee members:

Councillor Upton (Chair)

Councillor Cook

Councillor Fooks

Councillor Pegg

Councillor Tanner

Councillor Landell Mills (Vice-Chair)

Councillor Curran

Councillor Hollingsworth

Councillor Price

Officers:

Michael Morgan, Lawyer

Adrian Arnold, Development Management Service Manager

Robert Fowler, Planning Team Leader

Andrew Murdoch, Planning Team Leader

Catherine Phythian, Committee Services Officer

Apologies:

There were no apologies for absence.

88. Declarations of interest

There were no declarations of interest.

89. 16/02687/FUL: 265 - 279 Iffley Road And Garages, Percy Street, Oxford, OX4 4AH

The Committee considered an application for the re-development of the application site to provide student accommodation (117 student rooms), 11 x self-contained flats, a single storey garden room accommodating flexible space for use as student common room/teaching/lecturing space, 150sqm GIA for employment uses (Use Class B1), and associated landscaping and infrastructure (Amended plans) at 265-279 Iffley Road and Garages, Percy Street, OX4 4AH.

The Planning Officer presented the report and highlighted the following points:

- the Oxford Design Review Panel had commented favourably on the development
- the development had been the subject of extensive public consultation and had adopted a number of suggestions from the local community

Lucy Clarke (Friends of Iffley Road), Peter McQuitty (local resident), Sarah Wild (local resident), Thelma Martin (Iffley Fields Residents Association) and County Councillor David Williams spoke against the application. Ian Thompson (for the applicant) and Simon Fraser (architects) spoke in support of the application.

The consideration of this application was filmed by ISIS Student Magazine.

In discussion the Committee noted the following points:

- The applicant (Wadham College) had confirmed that it would make a contribution in the sum of £66K as requested by the Highways Authority towards a Controlled Parking Zone (CPZ) for the area north of Iffley Road
- The County Council had earmarked a further £200k in its budget for a separate Controlled Parking Zone (CPZ) for the Iffley Fields area
- The introduction of Controlled Parking Zones (CPZ) would be covered under CIL arrangements and were not material considerations for the planning application before the Committee
- The creation of a gated access lane to the rear of the site between Charles Street and Percy Street for delivery traffic was to be commended
- The development provided much needed student accommodation in an appropriate location and would be a sensitive and sympathetic improvement to the existing street scene

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

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions and informatives and the satisfactory completion of the following legal agreements and to delegate authority to the Head of Planning and Regulatory Services to issue the permission.

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Sample materials and panels
4. Large-scale drawings of design details
5. Student accommodation, out of term use
6. Student Management Plan
7. Bin and cycle storage
8. Revised travel plan
9. Travel Information Pack

10. Student - no cars
11. Car parking spaces
12. Construction Traffic Management Plan
13. Fire hydrants
14. Landscape plan
15. Landscaping carried out by completion
16. Tree Protection Plan
17. Arboricultural Method Statement
18. Removal of trees - Percy St garage site
19. Details of boilers and CHP
20. Boundary treatments
21. Sustainable design and energy efficiency
22. Biodiversity enhancements
23. Noise levels - air conditioning, plant
24. Kitchen extraction equipment
25. Demolition strategy and validation plan
26. Phased risk assessment - land quality
27. Remedial works and validation report
28. Watching brief unexpected contamination
29. B1 office use
30. Surface water - SUDS details
31. SUDS maintenance plan
32. Drainage infrastructure details

Legal agreements

1. Section 106 agreement to secure affordable housing contribution of £643,432.72
2. £1240 fee for Travel Plan monitoring
3. £2500 for the removal of parking zones on Iffley Road via Traffic Regulation Order

Informatives:

1. Construction Traffic Management Plan (Condition 12) to be discussed with residents and in place before commencement of works.
2. That Oxfordshire County Council should be asked to expedite the completion of the Section 278 Agreement and implementation of a Controlled Parking Zone to the north of Iffley Road as a matter of priority.

90. 16/01909/FUL: Linton Lodge Hotel, 11-13 Linton Road, OX2 6UJ

The Committee considered an application for the erection of a part one and half storey, part two and half storey rear extension to provide an additional 22 bedrooms; replacement windows to east and west elevations of existing rear three storey wing; replacement windows and alterations to roof and facade materials of existing rear single storey wing; replacement of front lobby extension, including formation of roofs to existing bay windows; replacement of windows; replacement of 3No. dormer windows and alterations to facade materials; and alterations to existing car parking and landscaping with provision of bin and cycle store at Linton Lodge Hotel, 11-13 Linton Road, OX2 6UJ.

The Planning Officer presented the report and briefed the Committee on the detail of the proposed plans. He apologised to the Committee for the errors in the original report which had been corrected and the omission of the floor plans from the original presentation which had also been corrected. He informed the Committee that he recommended the inclusion of a further condition (14) to require obscure glazing and non-opening windows below 1.7m from floor level.

Anthony Crean spoke against the application. Caroline Wilberforce (agent) spoke in support of the application.

The Committee consideration of the application focused on the potential impact of the re-development on the local area with regard to traffic and parking and in particular its relationship to the character and heritage of the North Oxford Victorian Suburb Conservation Area.

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

Notwithstanding the officer recommendation for approval and on being put to the vote, the Committee resolved to **refuse** planning permission for application 16/01909/FUL for the following reasons:

The proposal fails to meet the locational criteria of development plan policy TA4 not being located within any of the areas identified by that policy.

Further it would cause harm to the character and appearance of the North Oxford Conservation Area (in particular the treatment of the new entrance and the impact of the rear extension upon the existing sunken garden) contrary to development plan policy HE7 this harm being accorded considerable weight and attention as required by section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 131 and 132 of the NPPF, the Council further being of the view that such harm (albeit less than substantial within the meaning of the NPPF) is not outweighed by public benefits of the proposal as advised by paragraph 134 of the NPPF or clearly and convincingly justified as required by paragraph 132 of the NPPF.

That same harm also results in contravention of development plan policies CP1, CP6, CP8 and CS18.

These conclusions lead to the overall conclusion that the proposal is contrary to the development plan and other material considerations do not indicate that permission should nevertheless be granted the principal other material consideration being the combined effect of paragraphs 131, 132 and 134 of the NPPF.

91. 16/03030/VAR: 376 Banbury Road, Oxford OX2 7PW

The Committee considered an application for the variation of condition 2 (Approved plans) of planning permission 14/03445/FUL at 376 Banbury Road, Oxford OX2 7PW

The Planning Officer presented the report.

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions and legal agreement:

Conditions

1. Approved plans
2. Materials as approved
3. Boundary treatment
4. Lighting
5. Obscure glazing to north facing windows
6. Landscape plan carry out after completion
7. Landscape management plan
8. Landscape hard surfaces
9. Tree protection
10. Arboricultural method statement
11. Top soil retention
12. Parking spaces
13. Cycle parking
14. Variation of Road Traffic Order
15. Travel plan
16. Students no cars
17. Full time students
18. Supervision of students
19. Use as boarding school only
20. Contamination - risk assessment
21. Construction management plan

22. Ground resurfacing - SUDS compliant
23. Piling methods
24. Mechanical plant
25. Extraction equipment
26. Noise attenuation
27. Drainage strategy

92. 16/03094/VAR: The King's Centre Osney Mead Oxford OX2 0ES

The Committee considered an application for the variation of condition 3 (named 'Start and finish times of ancillary uses) to remove the personal permission to 'Oxfordshire Community Churches and its associated organisations', the primary users of the site within use class D1(h) at the King's Centre, Osney Mead, Oxford, OX2 0ES.

The Planning Officer presented the report.

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions.

Conditions

1. Specified drawings
2. Restricted uses
3. Start & finish times for ancillary uses
4. Travel Plan
5. Car parking
6. Cycle parking

93. 16/02894/FUL: 4 North Parade Avenue, Oxford, OX2 6LX

The Committee considered an application for the part change of use of ground floor and first floor from restaurant (Use Class A3) to form 1 x 2-bed flat at ground floor and an additional 1 x 1-bed flat at first floor (Use Class C3); alterations to windows and doors; provision of private amenity space and bin store at 4 North Parade Avenue Oxford OX2 6LX.

The Planning Officer presented the report.

Chris Williams and Marianne Moxon spoke against the application. There were no registered speakers in support of the application.

In discussion the Committee expressed concerns about the potential loss, or reduction in scale, of a restaurant service offering was out of keeping and detrimental to the

character of the local area. In the absence of more detailed information on the proposed Class A3 use and guidance on what would be a reasonable test of commercial viability for the development the Committee concluded that they had insufficient information before them to determine the application.

The Committee resolved to **defer** the application pending submission of more detailed information on the proposed Class A3 use and guidance on what would be a reasonable test of commercial viability for the development.

94. 16/01827/FUL: 17 St Margaret's Road, Oxford, OX2 6RU

The Committee considered an application for the demolition of an existing rear and side extension; erection of a single storey rear extension with formation of patio at lower ground floor, and two storey side extension at ground floor (amended plans) at 17 St Margaret's Road, Oxford, OX2 6RU.

The Planning Officer presented the report. And explained that the application had been called-in by Councillor Wade on the grounds that the proposed two storey side extension would fail to preserve or enhance the special character of the conservation area by eroding the spacing between properties.

Christopher and Julia Wigg spoke against the application. Ben Turney and Catherine Atkinson spoke in support of the application.

In discussion the Committee noted that the Council's Conservation Officer was satisfied with the amended plans. The Committee also considered that the existing garage to the side of the property meant that the view through the gap between the properties had already been partially obscured.

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions:

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Materials - matching
4. Surface water drainage

95. 16/02424/FUL: 23 Thorncliffe Road, Oxford, OX2 7BA

The Committee considered an application for a basement extension, a rear ground floor extension and small first floor extension and loft conversion and insertion of a dormer window and detached building in garden at 23 Thorncliffe Road, Oxford, OX2 7BA.

The Planning Officer presented the report and explained that the application had been called-in by Councillor Fooks on the grounds of overdevelopment of the site and impact on the neighbouring property.

Norman Davis spoke against the application. Andrew Hudson and Cecilia Gorenflos spoke in support of the application.

The Committee acknowledged the issues raised by the neighbours and local residents about the impact of construction work and traffic but noted that it would be unreasonable to condition a construction traffic management plan on this scale of development. The Committee also noted that the other concerns raised by the neighbours would be correctly addressed through the Party Wall etc. Act 1996 and were not material to the planning application before them.

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions:

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Extension materials
4. Outbuilding and dormer materials

Councillor Tanner left the meeting at the end of this item.

96. 16/02377/FUL: 134 Wytham Street, Oxford, OX1 4TW

The Committee considered an application for the erection of a single storey side and front extension at 134 Wytham Street, Oxford, OX1 4TW.

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

The Committee resolved to **approve** planning permission for the reasons set out in the report and subject to the following conditions.

Conditions

1. Development begun within time limit
2. Develop in accordance with approved plans
3. Sustainable Drainage Measures
4. Materials - matching
5. Plan of Car Parking Provision

97. Minutes

The Committee resolved to approve the minutes of the meeting held on 13 December 2016 as a true and accurate record.

98. Forthcoming applications

The Committee noted the list of forthcoming applications.

99. Dates of future meetings

The Committee noted the dates of future meetings.

The meeting started at 6.00 pm and ended at 8.50 pm

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