

# MINUTES OF THE PLANNING REVIEW COMMITTEE

**Wednesday 5 October 2016**

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**COUNCILLORS PRESENT:** Councillors Brandt, Fry (Chair), Kennedy, Malik, Munkonge (Vice-Chair), Sinclair, Wade, Brown and Iley-Williamson.

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

## **7. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Anwar (substitute Councillor Iley-Williamson), Councillor Goddard (substitute Councillor Wade) and Councillor Turner (substitute Councillor Brown).

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

## **8. DECLARATIONS OF INTEREST**

There were no declarations of interest.

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

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

The Chair made the following introductory remarks:

- Planning Review Committee (PRC) had been convened to consider only the merits of these five applications which had been “called in” by the Head of Planning & Regulatory Services on the grounds that a review was appropriate to ensure consistency in decision making for similar types of applications
- the PRC should be mindful of the importance of ensuring consistency when determining these five applications

- The five separate applications from Network Rail were seeking variations or removals to some (but not all) of the conditions applied to the previous approvals made by West Area Planning Committee (WAPC) in June 2015 and Feb 2016; for example the condition restricting the number of passenger and freight trains on the line was not for review by the Planning Review Committee (PRC) and stands as agreed at WAPC
- Appendix 2 presented the draft terms of an Unilateral Undertaking (UU) but it was important to note that this was the current proposal as submitted by Network Rail; it was not presented for approval by PRC as it lacked sufficient detail; the actual detailed terms of the agreed UU would be negotiated by planning officers (just as they would for any other s106 agreement) and the final UU would be signed off by the Head of Planning & Regulatory Services and the Chair of PRC.

The Officers presented the report and set out the background to the applications to be determined. They highlighted the following points:

- Condition 19 was imposed by the Secretary of State to ensure that operational noise and vibration are adequately mitigated at residential and other noise sensitive premises
- Condition 19 and the Noise and Vibration Mitigation Policy require monitoring of any mitigation that is installed at 6 and 18 months after services start in EWRP1 and again after services start in EWRP2: this must be undertaken because the Secretary of State requires it and is not impacted by any decision taken by the local planning authority
- In route sections H and I-1 the implications are that:
  - vibration monitoring is not required because no vibration mitigation installed
  - monitoring is required of the noise reduction performance of installed barriers and property insulation
- WAPC wanted additional monitoring of the operation of the rail line not just of the mitigation installed and imposed a condition requiring continuous monitoring of noise and vibration for 6 years
- Officers had advised the WAPC when it was considering applying a condition requiring additional monitoring, that in their opinion this form of condition would not meet the legal or policy tests of the Government's National Planning Policy Framework
- Network Rail was now applying to vary this condition to revert back to the requirements of condition 19 (with a voluntary enhancement in the form of a Unilateral Undertaking)

The Council's legal advisor then briefed the Committee and advised them that the Secretary of State's decision and associated conditions as specified in the deemed planning permission cannot be changed by the local planning authority. He commented on various points that had been raised in correspondence by local residents and the scope of the issues before the Committee.

The following residents spoke against the applications: Mr Paul Buckley, Mr Keith Dancey and Mrs Tricia Feeney.

Representatives from Network Rail and its advisors (Mr Paul Panini and Mr Ian Gilder) gave a presentation in support of the applications.

The Committee asked questions of the officers and public speakers and Network Rail representatives on the technical details of the applications before them.

In reaching their decisions the Committee considered the officers report and presentation, the advice given by the Council's legal advisor and the representations made by the public speakers and Network Rail.

The Committee made the following observations:

- The Committee was faced with an invidious decision; they acknowledged the residents' concerns but their scope to act was severely constrained by the terms of the deemed planning permission
- Although the NVMP was poorly drafted and gave rise to some ambiguity in its interpretation this did not allow the local planning authority to impose conditions that were outside its remit
- Network Rail had made an offer of some additional monitoring (to be agreed through a Unilateral Undertaking) and in response to a request from the Committee that they could as a gesture of community goodwill expand on this initial offer, had indicated that, having taken into account the strong representations from local residents and the concerns expressed by this Committee and the WAPC previously, they would take advice and consider extending that voluntary monitoring regime to include a wider range of freight services, other property types and also locations in section I-1
- The residents were to be thanked for their contribution to the technical debate

**10. 16/01406/VAR: NOISE MONITORING ROUTE SECTION H (RE - 15/00956/CND, CONDITION 4)**

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

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

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

**11. 16/01409/VAR: NOISE MONITORING ROUTE SECTION I-1 (RE - 15/03503/CND, CONDITION 4)**

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

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

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

**12. 16/01410/VAR: VIBRATION MONITORING ON PLAIN LINE, ROUTE SECTION H (RE - 13/03202/CND, CONDITION 3)**

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

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

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

In addition:

- the conclusion of a Unilateral Undertaking (to monitor vibration for four days at 3 properties close to the line in route section H and/or *at other locations to be mutually agreed*) the decision upon which to be delegated to the Head of Planning and Regulatory Services in consultation with the Chair of Planning Review Committee.

**13. 16/01411/VAR: VIBRATION MONITORING AT SWITCHES AND CROSSINGS, ROUTE SECTION H (RE - 14/00232/CND, CONDITION 3)**

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

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

1. Development in accordance with application documents

**14. 16/01412/VAR: VIBRATION MONITORING ON PLAIN LINE, ROUTE SECTION I-1(RE - 15/03587/CND, CONDITION 3)**

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

The Committee resolved to **approve** application 16/01412/VAR: Vibration monitoring on plain line, route section I-1 (re - 15/03587/CND, Condition 3) subject to the following conditions:

1. Development in accordance with application documents

**15. MINUTES**

The Committee resolved to **approve** the minutes of the meeting held on 22 June 2016.

**16. DATE OF FUTURE MEETINGS**

The Committee noted the dates of future meetings (if required).

**The meeting started at 6.00 pm and ended at 9.00 pm**