

Agenda

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Planning Review Committee

Date: **Wednesday 5 October 2016**

Time: **6.00 pm**

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

For any further information please contact:

Catherine Phythian, Committee and Member Services Officer

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

Planning Review Committee

Membership

Chair	Councillor James Fry	North
Vice-Chair	Councillor Chewe Munkonge	Quarry and Risinghurst;
	Councillor Farida Anwar	Headington Hill and Northway;
	Councillor Ruthi Brandt	Carfax;
	Councillor Stephen Goddard	Wolvercote;
	Councillor Pat Kennedy	Lye Valley;
	Councillor Sajjad Malik	Cowley Marsh;
	Councillor Dee Sinclair	Quarry and Risinghurst;
	Councillor Ed Turner	Rose Hill and Iffley;
	Councillor Elizabeth Wade	St. Margaret's;

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

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AGENDA

Pages

1 **APOLOGIES FOR ABSENCE**

2 **DECLARATIONS OF INTEREST**

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

11 - 48

The following five applications were considered and determined by the West Area Planning Committee on 13 September 2016.

These five applications have been called-in to the Planning Review Committee by the Head of Planning and Regulatory Services who considers that a review is appropriate to ensure consistency in decision making for similar types of applications/development.

4 **16/01410/VAR: VIBRATION MONITORING ON PLAIN LINE, ROUTE SECTION H (RE - 13/03202/CND, CONDITION 3)**

Site address: Chiltern Railway From Oxford To Bicester
Appendix 1 – route sections H and I-1

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

Officer recommendation:

Planning Review Committee is recommended to approve this application 16/01410/VAR for the following reasons and subject to and including:

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

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.

- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions

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

5 16/01411/VAR: VIBRATION MONITORING AT SWITCHES AND CROSSINGS, ROUTE SECTION H (RE - 14/00232/CND, CONDITION 3)

Site address: Chiltern Railway From Oxford To Bicester
Appendix 1 – route sections H and I-1

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

Officer recommendation:

Planning Review Committee is recommended to approve this application 16/01411/VAR for the following reasons and subject to and including:

- the conditions listed below

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions

1. Development in accordance with application documents

6 16/01406/VAR: NOISE MONITORING ROUTE SECTION H (RE - 15/00956/CND, CONDITION 4)

Site address: Chiltern Railway From Oxford To Bicester
Appendix 1 – route sections H and I-1

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

Officer recommendation:

Planning Review Committee is recommended to approve this application 16/01406/VAR for the following reasons and subject to and including:

- the conditions listed below

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions

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

7 16/01412/VAR: VIBRATION MONITORING ON PLAIN LINE, ROUTE SECTION I-1(RE - 15/03587/CND, CONDITION 3)

Site address: Chiltern Railway From Oxford To Bicester
Appendix 1 – route sections H and I-1

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

Officer recommendation:

Planning Review Committee is recommended to approve this

application 16/01412/VAR for the following reasons and subject to and including:

- the conditions listed below

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions

1. Development in accordance with application documents

8 16/01409/VAR: NOISE MONITORING ROUTE SECTION I-1 (RE - 15/03503/CND, CONDITION 4)

Site address: Chiltern Railway From Oxford To Bicester
Appendix 1 – route sections H and I-1

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

Officer recommendation:

Planning Review Committee is recommended to approve this application 16/01409/VAR for the following reasons and subject to and including:

- the conditions listed below

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and

that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions

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

9 MINUTES

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The Committee is asked to approve the minutes of the last meeting held on 22 June 2016 as a true and correct record.

10 DATE OF FUTURE MEETINGS

The following dates are scheduled for meetings of this Committee (if required):

2016

12 October 2016
9 November 2016
20 December 2016

2017

18 January 2017
15 February 2017
15 March 2017
12 April 2017
24 May 2017

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.

The following minimum standards of practice will be followed.

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.
2. At the meeting the Chair will 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.
4. Preparation of Planning Policy documents – Public Meetings

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.
5. Public requests to speak

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.
6. Written statements from the public

Members of the public and councillors can send the Democratic Services Officer written statements to circulate to committee members, and the planning officer prior to the meeting. Statements are accepted and circulated by noon, two working days before the start of the meeting. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to view 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.
7. Exhibiting model and displays at the meeting

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 at least 24 hours before the start of the meeting so that members can be notified.

8. Recording meetings

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 plan to record. You are not allowed to disturb the meeting and the Chair will stop the meeting if they feel a recording is disruptive.

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.

For more information on recording at meetings please refer to the Council's [Protocol for Recording at Public Meetings](#)

9. Meeting Etiquette

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.

10. 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.

a)

b)

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PLANNING REVIEW COMMITTEE

5th October 2016

Application Numbers:	16/01410/VAR: Vibration monitoring on plain line, route section H (re - 13/03202/CND, Condition 3)
	16/01411/VAR: Vibration monitoring at switches and crossings, route section H (re - 14/00232/CND, Condition 3)
	16/01406/VAR: Noise monitoring route section H (re - 15/00956/CND, Condition 4)
	16/01412/VAR: Vibration monitoring on plain line, route section I-1(re - 15/03587/CND, Condition 3)
	16/01409/VAR: Noise monitoring route section I-1 (re - 15/03503/CND, Condition 4)
Decision Due by:	22nd August 2016
Proposal:	Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.
Site Address:	Route sections H and I-1, Chiltern Railway From Oxford To Bicester
Ward:	St Margaret's, Summertown, and Wolvercote Wards
Agent: ERM	Applicant: Network Rail

The applications have been called-in to the Planning Review Committee by the Head of Planning and Regulatory Services who considers that a review is appropriate to ensure consistency in decision making for similar types of applications/development.

Introduction

1. This covering report should be read in conjunction with the officer's report dated 5th September 2016 attached as Appendix 1.
2. At the West Area Planning Committee on the 13th September 2016, Members resolved to determine these 5 planning applications in the manner and with the outcomes shown in summary form in paragraphs 5 and 6 below.
3. For clarity, the terms of the Unilateral Undertaking (referred to in relation to application 16/01410/VAR: Vibration monitoring on plain line, route section H) as suggested by Network Rail are reproduced as Appendix 2 to this report.

4. At the meeting on 13th September, a number of issues and questions were raised on which clarification is offered as follows:
- condition 19 (of the Secretary of State's deemed permission) and the Noise and Vibration Mitigation Policy (NVMP) do not make provision for continuous noise and vibration monitoring of the operation of the line. The only monitoring that is specified is of mitigation measures – these are measures installed over and above the inherent noise and vibration attenuating properties of the constructed line;
 - condition 19 (of the Secretary of State's deemed permission), the NVMP and the Environmental Statement do not set down residual noise and vibration levels that must be achieved during scheme operation – they refer only to predicted noise and vibration impacts and how those impacts are to be mitigated; and,
 - the Secretary of State's decision and associated conditions as specified in the deemed planning permission cannot be changed by the local planning authority.
5. For route section H, three applications were determined as in table 1 below:
- 16/01410/VAR: Vibration monitoring on plain line, route section H
 - 16/01411/VAR: Vibration monitoring at switches and crossings, route section H
 - 16/01406/VAR: Noise monitoring route section H

Application	Decision taken at WAPC
<p>16/01410/VAR: Vibration monitoring on plain line, route section H</p>	<p>Agreed officer recommendation To remove condition imposed by WAPC in June 2015; agree Unilateral Undertaking for limited vibration monitoring (Terms of Unilateral Undertaking to be agreed by Head of Service in consultation with Chair of WAPC)</p> <p>Outcome: (i) no vibration monitoring to take place in route section H (at plain line) because no vibration mitigation is installed.</p> <p><i>There will be no vibration monitoring after EWRP1 and EWRP2 services commence</i></p> <p>(ii) Agreed as a Unilateral Undertaking: NR's voluntary offer of 4 days vibration monitoring at 3 properties near plain line in route section H after EWRP1 starts and set out any remedial measures in the event that there is an exceedance of adopted Vibration Dose Value (VDV) levels.</p>
<p>16/01411/VAR: Vibration monitoring at switches and crossings, route section H</p>	<p>Agreed officer recommendation To remove condition imposed by WAPC in June 2015</p> <p>Outcome: (i) no vibration monitoring to take place in route section H (at switches and crossings) because no vibration mitigation is installed.</p> <p><i>There will be no vibration monitoring after EWRP1 and EWRP2 services commence</i></p>
<p>16/01406/VAR: Noise monitoring route section H</p>	<p>Agreed officer recommendation To vary condition imposed by WAPC in June 2015 to revert back to condition 19 requirements and agree monitoring locations</p> <p>Outcome: noise monitoring to take place in accordance with the NSoA approved by WAPC in June 2015. This will be monitoring of the performance of noise mitigation installed (barriers), 6 and 18 months after EWRP1 services start and any defects identified will be remedied.</p> <p>Put simply, the barriers are predicted to reduce noise by 'x' amount. If, as a result of monitoring it is found that 'x' amount of noise reduction is achieved there is no defect in barrier performance irrespective of actual noise levels.</p> <p><i>NB - para 2.11 of NVMP still stands – this requires monitoring (of mitigation installed) 6 and 18 months after EWRP2 services start, any defects identified to be remedied.</i></p>

Table 1: WAPC decisions in respect of route section H with some additional commentary for clarification

6. Route section I-1, two applications determined as in table 2 below:
- 16/01412/VAR: Vibration monitoring on plain line, route section I-1
 - 16/01409/VAR: Noise monitoring route section I-1

Application	Decision taken at WAPC
<p>16/01412/VAR: Vibration monitoring on plain line, route section I-1</p>	<p>Rejected officer recommendation To retain monitoring condition imposed by WAPC in February 2016</p> <p>Outcome: vibration monitoring of the operation of the line to take place continuously for 6 years and any mitigation found to be necessary to be installed within 6 months</p> <p><i>NB The reason for refusal this item was:</i></p> <p><i>In view of the statements from local residents about the high levels of vibration experienced it would be unreasonable to dispense with any vibration monitoring arrangements for plain route, section I-1 purely on the basis of modelling assumptions.</i></p>
<p>16/01409/VAR: Noise monitoring route section I-1</p>	<p>Agreed officer recommendation To vary condition imposed by WAPC in February 2016 to revert back to condition 19 requirements and agree monitoring locations</p> <p>Outcome: noise monitoring to take place in accordance with the NSoA approved at WAPC in February 2016. This will be monitoring of the performance of noise mitigation installed (barriers), 6 and 18 months after EWRP1 services start and any defects identified will be remedied.</p> <p>Put simply, the barriers are predicted to reduce noise by 'x' amount. If, as a result of monitoring it is found that 'x' amount of noise reduction is achieved there is no defect in barrier performance irrespective of actual noise levels.</p> <p><i>NB - para 2.11 of NVMP still stands – this requires monitoring (of mitigation installed) 6 and 18 months after EWRP2 services start and defects remedied.</i></p>

Table 2: WAPC decisions in respect of route section I-1 with some additional commentary for clarification

Conclusion:

7. Officers conclude that Network Rail's proposals (as set out in the report at Appendix 1) are acceptable: to remove or vary (as relevant) the additional noise and vibration monitoring requirements imposed as a condition by the West Area Planning Committee when the Committee approved the five respective Noise and Vibration Schemes of Assessment in June 2015 and February 2016.
8. Officers consider that the Network Rail proposals make satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents in line with the requirements of the Secretary of State's decision as expressed in the original deemed planning permission.
9. The officers' recommendation is therefore to approve these five applications to vary/remove the conditions for the reasons set out in the report at Appendix 1. In the case of 16/01410/VAR (Vibration monitoring on plain line, route section H) to defer the decision pending the completion of a legal agreement (unilateral undertaking) the terms of which to be delegated to the Head of Planning and Regulatory Services in consultation with the Chair of Planning Review Committee.
10. For ease of reference the recommendations before this Committee are listed in Appendix 3.

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: 13/03202/CND, 14/00232/CND, 15/00956/CND, 15/03587/CND, 15/03503/CND, 16/01410/VAR, 16/01411/VAR, 16/01406/VAR, 16/01412/VAR, 16/01409/VAR, Agenda reports and Minutes of the WAPC 13.09.2016

Contact Officer: Fiona Bartholomew

Extension: 2774

Date: 22nd September 2016

WEST AREA PLANNING COMMITTEE

13th September 2016

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

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

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

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

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

Decision Due by: 22nd August 2016

Proposal: Applications under Section 73 of the Town and Country Planning Act, 1990 to vary conditions in relation to noise and vibration monitoring in route sections H and I-1.

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

Ward: St Margaret's, Summertown, and Wolvercote Wards

Agent: ERM

Applicant: Network Rail

Recommendation

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

- the conditions listed below (*conditions are in part dependent on the determination of applications 16/01858/VAR and 16/01861/VAR earlier in this Agenda*); and,
- conclusion of a Unilateral Undertaking (to monitor vibration for four days at 3 properties close to the line in route section H) the decision upon which to be delegated to the Head of Planning and Regulatory Services:

16/01410/VAR: approve subject to conditions 1 and 3 below and conclude a Unilateral Undertaking

16/01411/VAR: approve subject to condition 1 below

16/01406/VAR: approve subject to conditions 1, 2, and 3 below

16/01412/VAR: approve subject to condition 1

16/01409/VAR: approve subject to conditions 1, 2, and 3 below

Reasons for Approval

- 1 The proposed monitoring makes satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.
- 2 Officers have considered carefully all objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officers report, that the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted.

Conditions (to be applied as relevant to the permissions being varied):

- 1 Development in accordance with application documents
- 2 Implementation of SilentTrack
(dependent on the determination of applications 16/01858/VAR and 16/01861/VAR earlier on this Agenda)
- 3 Monitoring in accordance with submitted scheme

Note about additional condition previously imposed by the Committee

The Committee will recall that when approving the original applications to which these variations refer, a condition was applied restricting train movements in accordance with condition 19 of deemed permission. The condition read:

“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)”

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

Principal Planning Policies

Oxford Local Plan 2001-2016

CP6 - Efficient Use of Land & Density

CP10 - Siting Development to Meet Functional Needs

Core Strategy 2026

CS13 - Supporting access to new development

CS27 - Sustainable economy

Other Main Material Considerations

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

Relevant Site History

13/03202/CND - Details submitted in compliance with condition 19 (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). 13/03202/CND – vibration: plain line, section H. PERMITTED 30th June 2015.

14/00232/CND - Details submitted in compliance with condition 19 (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). 14/00232/CND – vibration: switches + crossings, section H. PERMITTED 30th June 2015.

15/00956/CND - Details submitted in compliance with condition 19 (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). PERMITTED 30th June 2015.

15/03587/CND - Details submitted in compliance with condition 19(2) (Vibration - Section I1) 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). PERMITTED 9th February 2016.

15/03503/CND - Details submitted in compliance with condition 19(2) (Noise - Section I1) 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). PERMITTED 9th February 2016.

Consultations

Statutory Consultees

- Natural England – no comment
- Historic England – no heritage assets affected therefore no comment
- Highways Authority – no comment
- Thames Water Utilities Limited – no comments received
- Environment Agency Thames Region – no comments received
- Oxfordshire County Council – no comment

Representations

Representations have been received from 33 addresses including: Stone Meadow, Blenheim Drive, Lakeside, Bladon Close, Linkside Avenue, First Turn, Carey Close, Fairlawn Flats, Quadrangle House, Upper Close, Cyprus Terrace, and First Turn. 5 representations had no residential address given. The MP for Oxford West and Abingdon also commented.

The main points relevant to monitoring raised in those representations are:

- The additional monitoring required by condition 4 was inserted by the planning committee specifically to compensate for the uncertainty about Phase 2 of East West Rail
- Future noise monitoring is one of the few realistic protections we have to help gain the best protection at the outset
- The original requirement for four episodes of monitoring as specified in the Noise and Vibration Mitigation Policy should be adhered to
- Verification of the achievement of residual noise levels set out in the Environmental Statement requires monitoring to be done after the introduction of Phase 2 of East West Rail - it would be unreasonable and inconsistent with the TWAO for residents affected to be denied this verification
- The 72 month monitoring period should be maintained
- The purpose of monitoring is to check that the noise mitigation measures satisfied the requirements specified in the original approval
- It is not the case that network rail is simply seeking to reinstate the original monitoring conditions
- There must be a second program of monitoring in order to gauge the actual impact of noise levels after commencement services on East West Rail Phase 2
- The noise predictions are unreliable therefore the second phase of monitoring is required - there is a need to check actual not predicted noise level after the full range of East-West rail passenger and freight trains have been introduced
- The City Council does not have the power to amend the planning permission;
- some especially vulnerable properties very close to the railway are omitted from the monitoring scheme: the City Council's own properties in Sheriff's Drive, Wolvercote Primary School, and properties in both St Peters Road and Ulfgar Road. Network rail are seeking to save costs at the expense of residents reasonable expectation of the quiet enjoyment of their homes;
- The requirements of the TWA order should not be watered down in favour of the short-term budget consideration of Network Rail;
- The application is made purely so that Network Rail can avoid the risk of having to compensate local householders.

The Purpose of this Report

1. The purpose of this report is to consider and recommend on the acceptability of NR's proposals to vary the conditions for monitoring operational noise and vibration on East West Rail Phase 1 which were applied by the Council and were additional to the monitoring requirements laid down by the Secretary of State in the deemed planning permission.

Background

The deemed planning consent for EWRP1

2. 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. The original permission was described in terms of Phases 1, 2A and 2B – these phases are all now encompassed in the term East West Rail Phase 1 (EWRP1) which covers the line from Bicester to Oxford.
3. *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 prescribed approach to monitoring operational noise and vibration

4. Condition 19 of the deemed planning permission (**Appendix 2**) 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”.

5. Condition 19(2) of the deemed permission for the scheme requires the submission of Noise Schemes of Assessment (NSoAs) and Vibration Schemes of Assessment (VSoAs) and associated proposals for monitoring and mitigation of the operational noise and vibration of the passenger and freight services on the rail line.
6. Condition 19(6) states that monitoring of noise and vibration shall be undertaken in accordance with the approved schemes of assessment and the Noise and Vibration Mitigation Policy (NVMP) which was approved by the Secretary of State as part of the deemed planning permission (**Appendix 3**).
7. In respect of monitoring the operation of the scheme the NVMP states that (with officer highlighting):

*“1.11 After each Phase of works, **the effectiveness of the noise insulation measures installed will be monitored**, as detailed in para 2.11”*

8. The NVMP prescribes the form of the monitoring scheme in the following terms:

“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 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”.

9. In summary, condition 19 of the deemed permission and the NVMP require monitoring to be undertaken only of the performance of any installed noise and vibration mitigation; this to be achieved through surveys at 6 and 18 months after the opening of the line from Bicester to Oxford. **This monitoring will have to be undertaken by NR regardless of the Committee’s decision on the current applications – the local planning authority cannot change the Secretary of State’s decision.** The only involvement of the local planning authority in the monitoring scheme prescribed by the NVMP is to agree the monitoring survey locations – in practice, this is achieved through approval of the NSoAs and VSoAs.

The monitoring schemes in the approved NSoAs and VSoAs

10. The NSoA and VSoAs for Section H of the scheme were approved by West Area Planning Committee (WAPC) on 30th June 2015 (13/03202/CND 14/00232/CND and 15/00956/CND). The NSoA and VSoA for route section I-1 of the scheme were approved by the WAPC on 9th February 2016 (15/03587/CND and 15/03503/CND).

11. The approved NSOAs include noise monitoring in accordance with the scheme prescribed in the NVMP. One noise monitoring programme is proposed (because EWRP1 is being implemented in one phase rather than two phases) undertaken at approximately 6 and 18 months after the opening of the railway for passenger services. It consists of noise measurements taken at key receptors where mitigation has been installed, the locations to be agreed with the Council. It also includes modelled predictions of the impact of freight movements from EWRP2. Measurements will also be made at an open location where no mitigation is required to ensure that the unmitigated train noise levels are consistent with the assumptions made in the modelling.
12. The approved VSOAs do not include proposals for monitoring because the NVMP requires monitoring only of the performance of the mitigation that is installed. Given that no vibration mitigation is proposed, no vibration monitoring is proposed.

The Council's planning condition requiring additional monitoring

13. When approving these NSOAs and VSOAs, the City Council imposed on each permission a condition regarding additional monitoring respectively of noise and vibration which reads:

“Section H/1 shall not be made available for use by trains until provision for continuous monitoring of noise/vibration has been effected for noise sensitive properties throughout section H/1 in accordance with a scheme previously approved in writing by the Council. The results of such monitoring shall be provided to the Council on each of six months, eighteen months, thirty months, forty-two months, fifty-four months, sixty-six months and seventy-eight months from the date on which Section H 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)”

14. The West Area Planning Committee imposed this condition because it was concerned to know not just how the mitigation was performing but also what the actual noise and vibration levels of the operating service would be (passenger and freight and including East West Rail Phase 2 – Bicester to Bletchley). The Committee wanted to be in a position to assess the impacts of those levels on residential and other amenity and to determine whether any additional noise or vibration mitigation would be required. They came to this view because of what they regarded as uncertainties in the assumptions used to predict operational noise and vibration, and uncertainties about the patterns of services into the future and the types and quality of rolling stock. The Committee decided that additional noise and vibration monitoring, over and

above the requirements of the deemed planning permission and the Noise and Vibration Mitigation Policy should be required.

15. The Committee was advised by officers at the time that in their opinion this form of condition would not meet the legal or policy tests of the NPPF.

NR's revised proposals for monitoring

16. NR's proposals for monitoring are summarised in the table below:

	Current planning ref:	Subject	Proposal
1	16/01410/VAR relating to 13/03202/CND Condition 3	Vibration monitoring on plain line, route section H	Remove condition 3 but in view of previous written undertaking to carry out vibration monitoring in this section, conclude a Unilateral Undertaking to monitor vibration for four days at 3 properties close to the line (1 in Quadrangle House and 2 in Bladon Close)
2	16/01411/VAR relating to 14/00232/CND Condition 3	Vibration monitoring at switches and crossings, route section H	Remove condition 3 because there are no properties near enough to be affected by vibration (70m away) (Notwithstanding previous written undertaking to carry out vibration monitoring in this section)
3	16/01406/VAR relating to 15/00956/CND Condition 4	Noise monitoring route section H	Vary condition 4 to require monitoring at 6 and 18 months in line with the original deemed permission condition 19(1, 6). This to be at 5 locations: Lakeside; Five Mile Drive; Bladon Close; Quadrangle House; and Blenheim Drive.
4	16/01412/VAR relating to 15/03587/CND Condition 3	Vibration monitoring on plain line, route section I-1	Remove condition 3 because no vibration mitigation is proposed and the NVMP only requires the performance of installed mitigation to be monitored
5	16/01409/VAR relating to 15/03503/CND Condition 4	Noise monitoring route section I-1	Vary condition 4 to require monitoring at 6 and 18 months in line with the original deemed permission condition 19(1, 6). This to be at 3 locations: Cox's Ground, Stone Meadow and Navigation Way.

17. Bearing in mind the reasons why the Committee imposed these conditions, officers asked NR to consider amending proposals 3 and 5 in the table above, effectively to extend the assessment of measured noise within each scheme so as to report on the residual mitigated and unmitigated noise levels at each receptor, comparing these to the baseline levels in the Environmental Statement and stating whether the residual unscreened and screened levels were above or below predicted. While accepting that this did not go as far as the Committee wanted as set out in the condition, the suggestion was made because in the view of officers this would be a relatively straightforward exercise which would go some way to achieving the Committee's aim – it

would be a similar commitment to that made for proposal 1 above in respect of vibration in the form of a Unilateral Undertaking.

18. NR considered this proposed amendment but has declined to pursue it on the grounds that:

- i. the vibration standards are simply expressed as absolute VDV values in the NVMP and the locations at risk have been very clearly identified as the 'worst cases'. With noise there isn't an equivalent situation – there are several parameters and trigger values and no "worst case" locations have been identified, thus it will not be feasible to formulate similar parameters for noise;
- ii. in practice, monitoring will compare the measured/extrapolated noise levels at the receptors with those predicted at the same location using the model, as part of the analysis of barrier performance and this information will be published; and,
- iii. it is an unreasonable expectation that NR should have to provide additional mitigation for differences that arise, for example, from the Calculation of Railway Noise methodology or from differences in operating conditions (for example train speeds) from those modelled.

19. NR's proposals are therefore to be considered by the Committee in their original form (table above).

20. Members might wish to note that the data generated from NR's noise monitoring proposals will include measurements at unscreened locations. Such data could be considered to represent relevant post-scheme residual unmitigated noise levels and thereby will enable comparison with the pre-scheme base levels as envisaged in paragraph 17 above.

Officers Assessment

21. At the West Area Planning Committee in June 2015 in relation to route section H, officers advised against the imposition of conditions requiring monitoring additional to that prescribed by the Secretary of State. Officers remain of that view.

22. The monitoring proposals before the Committee go beyond what was prescribed in the deemed permission but not as far as the additional monitoring that the Committee required in the condition it applied to approval of the NSoAs and VSoAs. In the view of officers therefore, the proposals should be approved.

Conclusions

23. It is concluded that the proposals are acceptable and may be approved as making satisfactory provision to help secure a reasonable level of mitigation of the noise and vibration impacts of the scheme on local residents.

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: 13/03202/CND, 14/00232/CND, 15/00956/CND, 15/03587/CND, 15/03503/CND, 16/01410/VAR, 16/01411/VAR, 16/01406/VAR, 16/01412/VAR, 16/01409/VAR

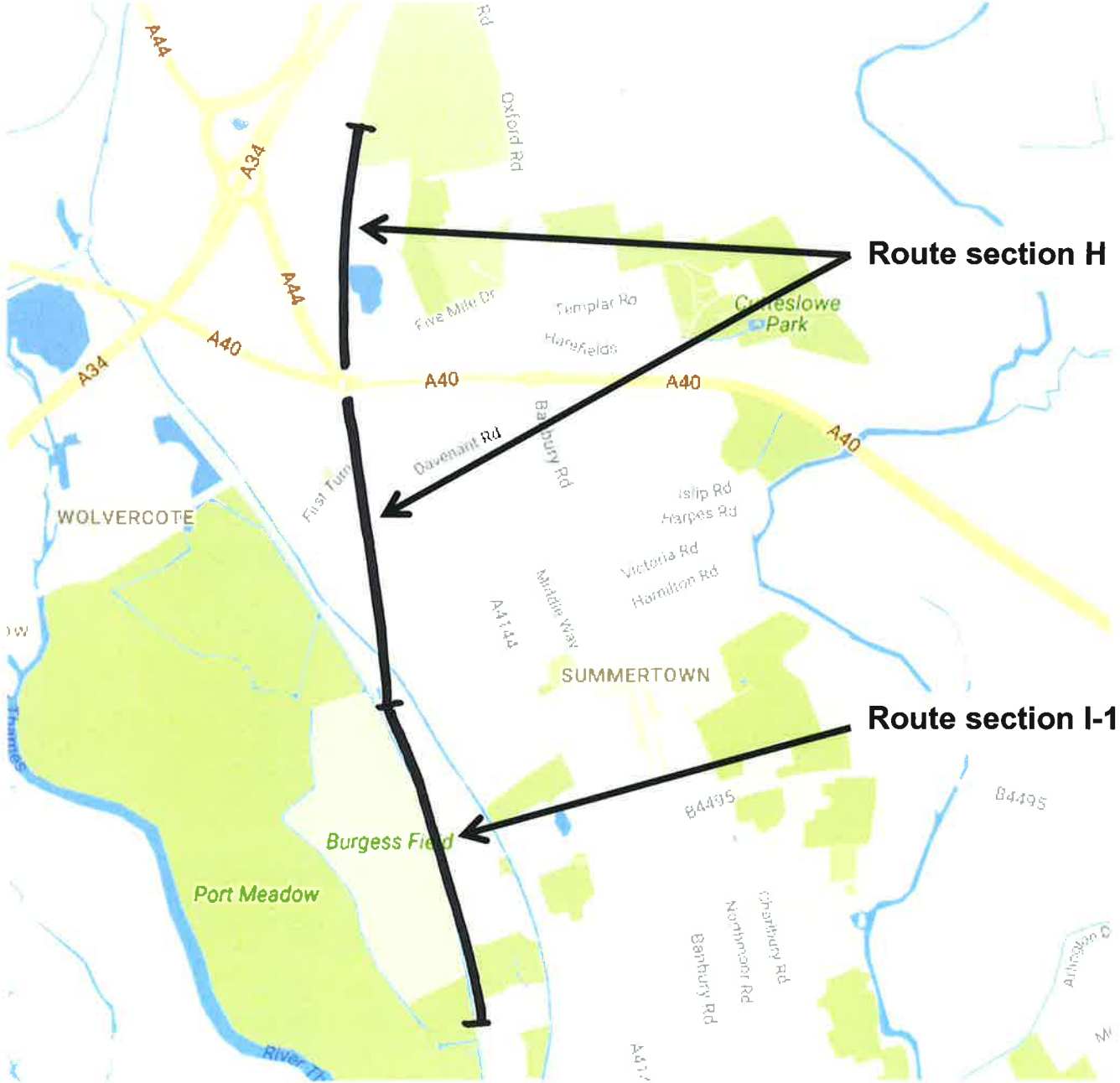
Contact Officer: Fiona Bartholomew

Extension: 2774

Date: 5th September 2016

APPENDIX 1

ROUTE SECTIONS H AND I-1



Route section H

Route section I-1



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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”

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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EXTRACT FROM APPLICATION DOCUMENT RELATING TO 16/01410/VAR
SUGGESTED TERMS OF THE UNILATERAL UNDERTAKING IN RELATION TO
PLAIN LINE MONITORING IN ROUTE SECTION H

1.4 NR UNDERTAKING ON VIBRATION MONITORING OF PLAIN LINE IN SECTION H

Although this s73 application is seeking the removal of Condition 3 of 13/03202/CND (Section H Plain Line) as vibration monitoring is not required under the Policy or consequently under Condition 19 of the deemed planning permission, Network Rail (NR) is prepared to honour a previous offer made by letter to OCC on 29 April 2015 to undertake vibration monitoring in Section H.

As the vibration SoA shows, there is, in practice, virtually no risk of exceedance of the vibration limits and therefore no justification for a requirement to undertake post-construction vibration monitoring under Condition 19(6). This commitment will take the form of a separate unilateral undertaking to be given by NR to OCC.

It is important to note that this additional offer does not form part of the mitigation set out and assessed in the SoA, nor does it form part of mitigation set out in the Policy and its provision is not subject to Condition 19. This offer is therefore not required to be agreed or permitted before passenger rail service resumes through Section H.

The undertaking to be given by NR will be to do the following:

- monitor train operational vibration at three occupied residential properties in Section H. These are all on plain line sections of track, since there are no switches or crossings in Section H close enough to residential properties to merit monitoring. The selected preferred locations are **Quadrangle House**, as it is the closest to the railway and is of an unusual slab deck construction; **2b Bladon Close** as it is the next closest to the railway and is of a conventional brick construction on strip concrete foundations and **3 Bladon Close** as it is also very close to the railway and is of a timber framed construction. The locations are shown in **Figure 1 [below – the locations are Quadrangle House, 3 Bladon Close, 2b Bladon Close]**. The locations have been chosen due to their proximity to the railway and because they represent three distinct structural types of residential property found close to the railway in Section H. These locations will only be confirmed once NR has consent from the property owners. In the event that one or more of the owners does not give consent, another building will be sought of a similar type of construction that is close enough to the railway to provide meaningful results;
- the monitoring will take place as soon as convenient after railway services resume in December 2016;

- monitoring needs to take place inside the building, in a room which is normally occupied at position where vibration transmitted from the railway is likely to be greatest. This will vary according to the structure of the building, but is generally on the ground floor at a point which is furthest from vertical structural support. Use of the room where the measurements are taking place may need to be restricted and the equipment has to be in contact with a hard floor surface if practicable;
- monitoring will take place for a period of up to four days. A longer period could be undertaken by agreement of the property owners, but a four day period should be sufficient to capture data from all types of train using the railway;
- calculate 'with EWR P1' vibration dose values (VDV) based on monitored results and number/duration of train passes that are anticipated with the full EWR P1 service running using the calculation procedures in BS 6472;
- identify if there is an exceedance of the vibration limits as set out in the Policy;
- set out remedial measures that will be proposed, in the event that there is an exceedance of the vibration limits as set out in the Policy.

A report setting out the results of the vibration monitoring will be made publically available and copied to OCC within three months of completion of the monitoring.



Recommendations before Planning Review Committee

Application	Recommendation & Conditions
<p>16/01410/VAR: Vibration monitoring on plain line, route section H (re - 13/03202/CND, Condition 3)</p>	<p>Approve with conditions:</p> <ol style="list-style-type: none"> 1. Development in accordance with application documents 2. Monitoring in accordance with submitted scheme <p>In addition:</p> <p>Conclusion of a Unilateral Undertaking (to monitor vibration for four days at 3 properties close to the line in route section H) the decision upon which to be delegated to the Head of Planning and Regulatory Services in consultation with the Chair of Planning Review Committee</p>
<p>16/01411/VAR: Vibration monitoring at switches and crossings, route section H (re - 14/00232/CND, Condition 3)</p>	<p>Approve with conditions:</p> <ol style="list-style-type: none"> 1. Development in accordance with application documents
<p>16/01406/VAR: Noise monitoring route section H (re - 15/00956/CND, Condition 4)</p>	<p>Approve with conditions:</p> <ol style="list-style-type: none"> 1. Development in accordance with application documents 2. Implementation of SilentTrack 3. Monitoring in accordance with submitted scheme
<p>16/01412/VAR: Vibration monitoring on plain line, route section I-1 (re - 15/03587/CND, Condition 3)</p>	<p>Approve with conditions:</p> <ol style="list-style-type: none"> 1. Development in accordance with application documents
<p>16/01409/VAR: Noise monitoring route section I-1 (re - 15/03503/CND, Condition 4)</p>	<p>Approve with conditions:</p> <ol style="list-style-type: none"> 1. Development in accordance with application documents 2. Implementation of SilentTrack 3. Monitoring in accordance with submitted scheme

Note about additional condition previously imposed by the West Area Planning Committee

West Area Planning Committee when approving the original applications to which these variations refer, applied a condition restricting train movements in accordance with condition 19 of deemed permission. The condition read:

“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)”

The West Area Planning Committee was advised by officers at the time that in their opinion this form of condition would not meet the legal or policy tests of the NPPF.

Officers remain of that view and, as they advised the West Area Planning Committee on 13 September 2016, are not recommending the re-imposition of this condition in relation to any of the applications listed above.

MINUTES OF THE PLANNING REVIEW COMMITTEE

Wednesday 22 June 2016



COUNCILLORS PRESENT: Councillors Fry (Chair), Anwar, Brown, Goddard, Kennedy, Price and Sanders.

OFFICERS PRESENT: Robert Fowler (Senior Planner), Michael Morgan (Lawyer) and Catherine Phythian (Committee Services Officer)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from:

- Cllr Brandt
- Cllr Malik – substitute Cllr Brown
- Cllr Munkonge
- Cllr Sinclair – substitute Cllr Price
- Cllr Turner – substitute Cllr Sanders

2. ELECTION OF CHAIR FOR THE COUNCIL YEAR 2016-17

The Committee **resolved to elect** Cllr James Fry as Chair for the Council year 2016/17.

3. ELECTION OF VICE CHAIR FOR THE COUNCIL YEAR 2016-17

The Committee **resolved to elect** Cllr Chewe Munkonge as Vice-Chair for the Council year 2016/17.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. PAVILION, RECREATION GROUND, MARGARET ROAD OX3 8AY: 16/00002/CT3

The Committee considered an application for the demolition of the existing sports pavilion and the erection of a new sports pavilion (amended plans) at the Pavilion Recreation Ground, Margaret Road, OX3 8AY (16/00002/CT3).

The Committee noted that this application had been approved at the East Area Planning Committee on the 11 May 2016, and that it was subsequently called in on the grounds that:

- the design does not meet the stated needs of the community, for example lack of shelter for parent observers in bad weather and insufficient catering space for sports teas and community use
- The windows do not face playground and sports facilities which some parents feel has safeguarding implications
- There is insufficient good quality cycle access
- There would be safety concerns regarding the entrance to the site with the possibility that children may run out of the playground across into the excessively large parking area

The Planning Officer presented the report and made the following points for clarification:

- Condition 4: the bollards at the entrance to be made of wood rather than metal as originally specified
- Conditions 2 and 7: amended to include the retention of a lime tree
- The number of cycle parking stands had been increased in the amended plans

Roz Smith (County Councillor for Headington & Quarry Division), Sophie Clegg and George Kershaw (local residents) addressed the Committee confirming their support for the proposal for a new sports pavilion but expressing concerns about the design of the building.

Matthew Savory (agent) and Dee Sinclair (City Councillor, Quarry & Risinghurst) spoke in support of the application.

Discussion

The Committee asked questions of the officers and speakers to clarify a number of matters.

Decision:

A motion to grant planning permission in determination of the application subject to the conditions detailed below and as recommended in the officer's report was carried unanimously on being put to the vote.

The Committee resolved to **grant** application (16/00002/CT3) subject to the following conditions:

Conditions:

1. Development begun within time limit

2. Develop in accordance with approved plans
3. Materials as specified
4. Access improvements
5. Car parking improvements
6. Drainage
7. Arboricultural Report
8. Cycle parking
9. Contaminated Land – Risk Assessment
10. No Occupation until Remediation
11. Unexpected Contaminated
12. Watching brief
13. Outdoor lighting
14. Biodiversity enhancements
15. Nesting birds

6. MINUTES

The Committee resolved to **approve** the minutes of the meeting held on 27 April 2016.

7. DATE OF FUTURE MEETINGS

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

The meeting started at 5.30 pm and ended at 6.15 pm

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