

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

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