

To: Council

Date: 5 December 2016

Title of Report: Public addresses and questions that do not relate to matters for decision

This document was updated following the meeting.

Introduction

1. Addresses made by members of the public to the Council, and questions put to the Board members or Leader, registered by the deadline in the Constitution, are below. Any written responses available are also below.
2. Addresses as submitted by the speakers and written responses where available were published with the briefing note in advance of the meeting.
3. This report was republished after the Council meeting as part of the minutes pack and replaces that published with the briefing note.
4. This lists:
 - the submitted text of speeches where delivered broadly as submitted, deleting parts not read out;
 - noteworthy amendments to reflect the spoken address in italics.
 - summaries of speeches delivered where these differed significantly from those submitted;
 - written responses published in the briefing note before the meeting; and
 - summaries of verbal responses by the Board Members given at the meeting.

Addresses and questions taken in Part 2 of the agenda.

Addresses in part 2

1. Address by Mr Colin Aldridge, East Oxford Community Centre Association
2. Address by Simon Collings, on behalf of Oxford Flood Alliance
3. Address by Artwell
4. Address by Larry Sanders – relating to Motion 1 on the agenda
5. Address by Michael Drolet
6. Address by Sarah Lasenby
7. Address by Stefan Piechnik .

Questions in part 2

1. Question from Judith Harley – proposed funding for Cowley Marsh Recreation Ground
2. Question from Mr Guilhem Poussot – Network Rail and Oxford – Marylebone line
3. Question from Dr Michael Drolet– Network Rail and Oxford – Marylebone line
4. Question from Lady Jackie Grey – Network Rail and Oxford – Marylebone line
5. Question from Liz Sawyer – extension to Seacourt Park and Ride

Addresses in part 2

1. Address by Mr Colin Aldridge, East Oxford Community Centre Association

In light of the recent news report of homelessness increasing in Oxford does the Council think that it is acceptable that the preferred option is to close community facilities in East Oxford?

The council have said they will cater for all three sites into one (the land to the rear, East Oxford Games Hall, Film Oxford Building) If these sites are to be used for housing they should be used for affordable housing or in the case of Film Oxford and the part of the Chinese centre which is not condemned maybe a homeless unit. It is obvious the reduced space in the preferred option 3 would not be able to house all the activities. There is also a much reduced yard which is an important area for many centre users. After a reference group meeting (in which it was obvious there are many unanswered questions) we were assured there is a long way to go with this project.

Your officer in charge of the meeting told us they are willing to look at another option which is encouraging. We may get a centre which caters for the needs of the residents of Oxford East.

EOCA would like to work with the council to produce a suitable centre which will be used for many years to come. We need a centre which is far more innovative in design and use. Hopefully between interested parties we will have a centre truly fit for the 21st century.

Thank you for listening.

Summary of the verbal response given by Councillor Simm at the meeting

Colin, thank you. I have read what you have to say and thank you very much for coming today. I very much appreciate your offer to work with us and, as I said earlier in the meeting, although official consultation period is at an end discussions are on-going with various people in the community who have an interest. We look forward to having a constructive and positive engagement with you and your association. So thank you very much for coming along this evening.

2. Address by Simon Collings, on behalf of Oxford Flood Alliance

Councillors, Ladies and Gentlemen,

I rise this evening to draw your attention to the concerns of the Oxford Flood Alliance about the proposed extension to Seacourt Park & Ride. In our view this development breaches national planning policy, and could increase flood risk during major events.

National guidelines on planning policy, the NPPF, steer planners away from siting developments in the functional floodplain, wherever practically possible. Oxford's own strategic planning document, the Core Strategy, follows these guidelines. Because Oxford is vulnerable to flooding, the City Council has put in place sensible, long-term policies to protect its floodplain, and in particular undeveloped, greenfield floodplain which absorbs and retains water during floods. Core Strategy 2 states, inter alia: *Greenfield land will not be allocated for development if any part of the development would be on Flood Zone 3b. Core Strategy 11 says: Planning permission will not be granted for any development in the functional flood plain (Flood Zone 3b) except water-compatible uses and essential infrastructure.*

The proposed Seacourt extension involves development of a greenfield site in Flood Zone 3(b). This is clearly in clear contravention of Core Strategy 2, and contrary to the NPPF advice.

The consultants who prepared the application try to suggest that the NPPF is silent on the specific issue of Park & Ride and that there is therefore leeway to consider this development acceptable provided any resulting flood risk can be mitigated. This argument in our view is spurious. The only permitted development in Flood Zone 3(b) under the NPPF is essential infrastructure or 'water compatible development'. A Park & Ride is not essential infrastructure in NPPF terms. In the government's guidance on flood risk and planning, it says: 'water-compatible uses, should be designed and constructed to... remain operational and safe for users in times of flood.' As the proposed carpark extension will be closed during a flood it clearly does not comply with this requirement. The applicants state, based on discussion with the Environment Agency (EA), that the development is considered to have low risk vulnerability, because it will not be occupied during a flood. We agree with this. According to the NPPF guidance document developments like this, i.e. of a 'less vulnerable' nature, 'should not be permitted' in Flood Zone 3(b).

Having decided, for reasons which are not explained, that this proposal is somehow compatible with the NPPF framework the applicant attempts to apply an assessment 'akin to the Sequential and Exception tests' required for justifying development of essential infrastructure in Zone 3(b). The use of 'akin to' is interesting terminology – the consultants are essentially saying they are working outside the NPPF. The NPPF Sequential Test is supposed to be a tool for making strategic assessments of where best to locate development, it is not a tool for justifying the kind of short term, quick-fix process being proposed here. The way the Sequential Test has been applied in this application is wholly inconsistent with NPPF guidance and example case studies. A process 'akin' to the sequential approach should not be accepted by the planning authority as consistent with NPPF requirements.

Apart from the breaches of planning policy we have very grave concerns about the quality of the Flood Risk Assessment. This document has many weaknesses. Among other things it fails to provide proper data on how frequently this site actually floods. The table on page 14 lists 'historic flood events recorded within the site since 1947.' But this only gives major floods up to 2008. Oxford experienced serious flooding between Nov 2012 and Feb 2013, with Botley Rd closed for significant periods, and very serious flooding in Jan and Feb 2015. This site floods frequently. Even when the city is not threatened by flooding water builds up at various points in the floodplain after

a period of rainfall. The ground survey supports our view that the water table is very near the surface.

The design proposed would be fine if the car park were outside the floodplain, and it would help to reduce runoff. But the site is in the floodplain and will flood frequently. The porous surfaces proposed for the paving will soon clog with silt and the area become damaged as a result of flooding. In a major flood event there is serious risk of the fencing and structures on the site being carried into the Seacourt causing an obstruction in the river, not to mention any cars stranded on the site. This would block a major flood route impeding the drainage of the whole flood plain north of Botley Road. There is no discussion anywhere in the planning documents about the cost of maintaining the this kind of design which would suffer from serious flooding every other year.

This development is at the northern end of the proposed Oxford Flood Alleviation Scheme but no attempt has been made by the consultants to understand the implications of what is being planned for OFAS .

There is an alternative and this is my new information. You could put temporary decking on the existing site. Planning documents claim this is not possible because of a legal covenant on the land. We asked to see that document and it turns out that it's the lease with the Co-op which says you cannot put buildings on the land without the landlord's permission. We believe there is an option of negotiating with the landlord for a perfectly suitable alternative.

Councillors, I put to you that this planning application is a major mistake. It breaches national flood planning policy and the City's own core strategy. The functional flood plain is a completely inappropriate location for a car park. Proceeding with this development would increase risk in large scale flooding events, and alternatives have to be found. We urge you not to proceed with this proposal. Thank you.

Written response from the Board Member, Councillor Hollingsworth

Thank you for your address to the Council. The documents associated with the planning application cover these issues. It will be up to the relevant planning Committee, or Committees, to weigh up the application against the relevant national and local planning policies, the responses of statutory and non-statutory consultees, the advice of the planning officers, and any other relevant material considerations, and come to a decision on these matters.

Summary of the verbal response given by Councillor Hollingsworth at the meeting

I have given a written response and have nothing to add to that. I thank the petitioner for raising it. This is a very challenging planning application and it will be considered in due course by the relevant planning committee.

3. Address by Artwell

Summary of address given by Artwell at the meeting:

I am going to reduce my main statement to 3 main points. As you know the space and facilities at East Oxford Community Centre is being greatly reduced and its of great concern to myself and many people in east Oxford. We turned up at a meeting 2 weeks ago when we thought we were going to hear the results of the consultation. The officers were there but sadly no elected representative. I think this is not good enough. We have a democratic system whereby people who hold office should come forward to have questions put to them in a democratic forum. So I am asking for a delay for whatever plans for EOCC until Portfolio holder will come down and listen to what we have to say and we can put questions to her in a democratic forum.

Summary of the verbal response given by Councillor Simm at the meeting

The printed text of this address is not exactly the same as Mr Artwell's contribution and its regrettable when in public life the level of debate is lowered to the level of a personal attack on an individual. However, in the interests of transparency and democracy I will account for my movements on 22 November. When that date was chosen for the reference group meeting, the purpose of which was for officers to report back on the outcome of the consultation process, I already had a long standing engagement which I could not miss. I told the officer chairing the meeting that I would come late if I could. There is no democratic deficit. The formal consultation process is over but we are working with those people in the east Oxford community who are willing and able to make a positive contribution. I have no more to add.

4. Address by Larry Sanders – relating to Motion 1 on the agenda

The Chief Executive of OCCG has said clearly that if NHS provision in Oxfordshire continues at its present level there would be a funding deficit of £200 million by 2020-21. They therefore had to reduce spending by that amount. Current spending is about £1billion pounds a year, so the reduction is extremely large and dangerous.

We have begun to see details of some of the changes which will be proposed. They include closure of hospitals (the 9 Community Hospitals, including Oxford City), ward closures and service downgrades (at the Horton, which will mean many additional patients coming to the JR), GP surgery closures, reductions in medical and nursing staff, substitution of less well trained personnel, and so on.

The NHS spends about 20% a year less than the average European Health service. We have fewer nurses, doctors and hospital beds than almost all similar economies. We thus start from a point of enormous strain and face at least 4 years of sizeable reduction in the capacity to care.

We have a serious shortage of Social Care services in terms of Nursing Homes and home care workers to take some of the strain off desperately pressed family members. This, in turn, creates additional stress for the NHS.

It is accurate to say that these cuts will cause death and suffering. The only plausible way to stop the cuts machine is for the people of the County to show their dismay and anger in very great numbers. The motion before you creates a framework for Oxford City Council to take a lead in informing the public and encouraging them to use their strength. I hope you will assume that responsibility.

Larry Sanders, Oxford resident

There was no formal response as this formed part of the debate on the Councillor Motion on NHS Sustainability and Transformation Plans.

5. Address by Michael Drolet

We are here to appeal to you in the strongest possible terms to uphold the planning condition you yourselves imposed on Network Rail. The condition was rightly and lawfully imposed to protect residents from residual noise and vibration, and it has not been met. By refusing to honour this Condition, Network Rail are in breach of the law and openly defying the Council. The service from Oxford station to Marylebone is advertised to commence on 12th December with tickets already being sold. This is a flagrant breach of planning control and the law. There is NO mitigation for vibration and only limited mitigation for noise.

The situation is now critical. The Council may be nervous about challenging Network Rail, but it is surely duty bound to do so. Line side residents, while suffering major disturbance for eighteen months while works were under way adjacent to their homes, have shown considerable restraint in not pressing for enforcement previously. Network Rail and Chiltern Rail are now taking the breach to a new and provocative level. It is unreasonable of Oxford City Council to expect residents to continue to show constraint in the face of such provocation.

We have seen, and continue to see, extraordinary events within the political sphere, due in part to electorates across the Western world becoming disillusioned with the political establishment and how it has tended to abdicate its civic responsibilities in favour of cosy corporate relationships. The outright flouting of the planning Condition by Network Rail and Chiltern Railways is as disgraceful as it is contemptuous- of due process, of yourselves, and of the people you represent. Network Rail clearly sees the Council as a pushover, a weak opponent willing to be bullied. You have the support of residents, both our MPs, and the Secretary of State. You should hold Network Rail to account, not simply as a point of principle but because democracy really matters. Please do not let everyone, including yourselves, down.

Written Response from Councillor Hollingsworth

I have absolute sympathy with the residents of North Oxford, who have been made promises by both Network Rail and Government ministers that have not been kept. The City Council has been left to try to make good these shortfalls, using powers that are limited and untested when it comes to railways. I undertake that the Council will use all the moral and legal pressure that it can, but I do so knowing that the utmost a City Council can do - when faced with an industry that has almost never in 200 years had to pay any heed to the impact on residents of its activities and a Government that has absolved itself of any responsibility whatsoever in this matter – will almost certainly not go anywhere near as far as local residents would want.

An Advice Note to Members issued on 28.11.16 and posted on the Council's "Railway Developments" web pages included a question and answer expressed in legal language which relates to this issue:

Paragraph 3. OCC position on the possibility of taking enforcement action in view of the commencement of rail services between Oxford Parkway and Oxford Station prior to determination of the current planning applications

As a matter of planning law, enforcement action is discretionary (e.g. section 172 of the Town and Country Planning Act 1990). The Secretary of State's policy requires Councils to act proportionately in responding to breaches of planning control (paragraph 207, National Planning Policy Framework). A breach of planning control does not trigger enforcement action as a matter of course. There is a clear requirement to consider enforcement action on its merits and whether this is proportionate, in the public interest and appropriate in the circumstances. Please see for example the

Secretary of State's Planning Practice Guidance (Paragraph: 011 Reference ID: 17b-011-20140306) stating, "[n]othing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case... "

In the case of EWRP1, if train services commence a breach of planning control will have occurred. However, in view of the current planning applications (see note 2 above) and the additional information recently provided by Network Rail in support, which the Council is evaluating, members are advised that it would not be expedient to take enforcement action at this time.

In plainer English, the legal advice is that enforcement action by Oxford City Council to stop trains running on 12th December would be both premature and unsustainable in court.

I should also be plain and say that, regrettably, we do not have the support of the Secretary of State for Transport. It has been reported that Nicola Blackwood MP and local residents believe that the DfT has offered the Council guidance throughout the process of discharge of the EWRP1 planning conditions. And that the substance of DfT guidance is that the Council can impose any condition, including speed restrictions that it deems necessary to get Network Rail (NR) to achieve acceptable noise and vibration levels

There has been no contact by DfT in relation to EWRP1, or offer of advice to officers or Councillors, other than the visit of the previous rail minister Claire Perry on 5th March 2015. Officers wrote (21st September 2016) to the DfT for clarification of two elements of the TWAO decision (monitoring; and amending the Secretary of State's decision) but have not yet had a reply. The Council has offered a briefing to the MP and will be writing to confirm the position as the Council sees it currently.

There are ongoing discussions between officers and the DfT about the Oxford Station redevelopment. These do not address the conditions of the EWRP1 deemed planning permission. DfT officials have informally indicated previously as a general principle that they are not supportive of conditions which may increase cost and restrict the development of the railway.

Summary of the verbal response given by Councillor Hollingsworth at the meeting

Thank you very much for your address which included some additional points to those you submitted. I have answered that submission with a written response and I don't think that I have anything to add: only to reiterate the sympathy and support which we want to give in what is an extraordinarily difficult situation. I would emphasise the final three paragraphs of my written response. The notion that we have had support from the Government or Department of Transport is utterly untrue.

6. Address by Sarah Lasenby

Good Evening Councillors

You will have heard from me about the unfortunate mistakes the Council has made by selling and then forcing the demolition of Temple Cowley Pools and Gym leaving a substantial and rising population without this resource and resulting in the other pools being overcrowded.

Today I want to ask about the process you follow in relation to debates triggered by petitions. If a petition reaches more than 1,500 signatures this will trigger a debate in Full Council. That sounds like the Council listening to the people and a good thing. I have listened to at least one debate that was a good debate covering important issues but then the vote bore no relation to the debate. So what is the point?

Then I then found out that the different party groups behave in different ways with both Labour Councillors and the Lib Dems deciding at their Group Meetings held before the Council Meeting, which way their Group will vote in such a debate. These decisions are whipped so no one is allowed to change their minds after hearing the discussion and possible new information in the debate.

So an apparently 'democratic' debate is actually just another exercise in control by the leading group. It has all been decided before hand before any new information has been heard. This makes a mockery of the debate

Now that Councillors realise what hardships have been caused to their constituents by their actions, these are the people of the 'blue hole' caused by the closure of Temple Cowley Pools, and that you have deprived these people of facilities for their health.

Action is needed. These people really need a well sited gym and pools as the legislation requires. Please will the Councillors respond to this reality and decide how to resolve the problem as soon as possible.

You need to take some action. This was a very well sited health provision very accessible and one these people really need. You must decide how to resolve the problem and to take some action to remedy this as soon as possible.

Please will the Councillors respond to this reality and Can you assure me that in future debates triggered by petitions signed by more than 1,500 people, the issues will be properly debated without whipping thus allowing Councillors to respond as they think best to any new information that they hear and that the debate's conclusion will be taken as a decision to be acted on?

Summary of the verbal response given by Councillor Price at the meeting.

As everyone knows whipping is part of the democratic system which exists in Westminster and elsewhere in the UK system. Whether it is used or not depends on the subject. Some subjects are whipped and some are not. In the context of Group meetings issues that are relevant are discussed in detail and so there is a democratic discussion. The decision on whether to whip the vote is not anti-democratic it is part of the democratic process.

(note: this statement by the Leader was made on behalf of all political groups and councillors)

7. Address by Stefan Piechnik

Dear Council and the members of the public,

I have addressed this assembly twice regarding the issue of Tower block Refurbishment. This has been planned thoroughly by City Council officers since at least 2007, but astronomical costs revealed to individual leaseholders only few months ago, well after the relevant £20M contract had been signed. The project has been advertised consistently for its improvement and area regeneration character, with assurances that no residents should worry about the cost. This turned out to be a farcically wrong for the leaseholders, as given the evidence of £50'000 bill on my doorstep, no one sane can consider this to be "good for all the residents" as the project advertising claims.

Furthermore, my recent experience with addressing this assembly indicates that misleading assurances have been presented here. In particular, in reply to my address to the Full Council in April this year, Cllr Rowley stated that court application has been submitted when it actually was not. He also assured the council that Tower blocks life will be extended by 30 years, but subsequently could not provide any evidence in support of this statement. Astonishingly, until I forced a formal complaint to put this on record in that meeting records, I was assured that giving misleading statements on the status of legal proceedings or presenting unsupported by evidence beliefs as facts, is not a problem at all.

In September, when I talked here about some previously undeclared disadvantages of the project, such as balcony doors narrower than escape hatches on Oxford city busses, or significant amounts of timber between load bearing walls of high rise buildings, the council and the public were assured that the project was fully consulted with the tenants. Certainly I did not know the problems from the consultation materials, and despite repeated requests I was not provided with any evidence where the specific clear disadvantages indicated mentioned were ever mentioned in the consultation materials. In my mind, it clearly follows that consultation cannot be therefore considered "full" in this respect, and the assurances given to all of us publicly in this hall must be considered misleading.

For certain I hope that my deep disappointed with the process is not irrational, and I wonder in what degree the custom of delivering consistently and un-apologetically assurances not supported by evidence undermines the process of decision making by the Oxford City Council.

Summary of the verbal response given by Councillor Rowley at the meeting

Councillor Rowley thanked Mr Piechnik for his address.

Questions in part 2

1. Question from Judith Harley – proposed funding for Cowley Marsh Recreation Ground

Question to the Board Member/ Leader, Councillor Smith

Lord Mayor, Councillors,

Earlier this year, at the June CEB (*City Executive Board*), I asked some questions about proposed funding for Cowley Marsh Recreation Ground which appeared on the CEB agenda as Carry Forward and New Bids (Agenda Item 7, the Integrated Performance Report Q4 2015/16). This item requested £132,000 for “Cowley Marsh Recreation Ground car park extension”, a figure subsequently approved at July’s Full Council meeting.

One of my questions to the June CEB was:

- If £132,000 is available to spend on Cowley Marsh Car Park, why can’t this be spent on repairing or strengthening the stone pillars and fencing at the entrance to the Park and surrounding the Car Park, restoring them to their rightful glory, so that the unsightly supporting temporary fencing can be removed?

to which I received the reply:

- Part of the expenditure will be used to make the current surround safe and therefore enable the temporary fencing to be removed.

To date, no repairs have been done, and the unsightly temporary fencing is still present. Residents want this rectified.

My questions to today’s Council are:

1. As money has been approved for this, why have no repairs been done to date?
2. Who is responsible for authorising and organising the necessary repairs to the stone pillars and fencing at the entrance to the Cowley Marsh Park?
3. What is the timetable for authorising and organising these repairs?
4. What is the estimated cost of these repairs?
5. When will these repairs be carried out?

Written Response from Councillor Smith

1. As stated previously, planning permission for the whole scheme associated with the refurbishment and changes to this car park will be required and detailed plans have needed to be drawn up. This work is almost complete.
2. The repairs will form part of the planning application which, if approved, will then be the responsibility of the Head of Direct Services to get the work undertaken.
3. It is intended to submit the planning application early in the new year and if approval is received, work is likely to commence in Spring 2017.
4. The cost of the repairs has yet to be finalised, but will be contained within the budget of £132,000 which has been approved for the scheme.
5. As stated in 3 above, it is likely that the work will commence in Spring 2017.

Summary of the verbal response given by Councillor Smith at the meeting

Thank you for the address. In the interests of efficiency the works to the gate are not independent and will be carried out as part of the same project as the works to the carpark. I look forward to seeing the gates restored to their rightful glory.

2. Question from Mr Guilhem Poussot – Network Rail and Oxford – Marylebone line

Question to the Board Member Councillor Hollingsworth

- a) What steps is Oxford City Council willing to take to enforce Condition 19?
- b) Has Oxford City Council approached, and/or does it have any plans to raise, these issues with the Local Government Association, or other county or city councils?

Written Response from Councillor Hollingsworth

- a) This is covered by my answer to Michael Drolet's address earlier and the Council's position is set out in the advice note published earlier on the Council's website.

The Council cannot pursue enforcement action ahead of the occurrence of a breach of planning conditions and the courts would not give us an injunction. Further, national planning policy does not support the Council taking enforcement action whilst there is a possibility that the position might be still be resolved by other routes; in this case Network Rail has submitted fresh planning applications and information. As a matter of principle, the courts would not support the Council acting ahead of considering this information and determining these planning applications.

- b) No. The planning issues we face are specific to Oxford and arise from the Secretary of State's original decision and the particular conditions the Planning Inspector set.

These are not matters where the LGA has expertise. We are aware of the experience of councils elsewhere. However, most Network Rail development is undertaken under their own powers (permitted development) without reference to the local planning authority, which is why the circumstances in Oxford are unusual.

There was no further response from Councillor Hollingsworth at the meeting.

3. Question from Dr Michael Drolet– Network Rail and Oxford – Marylebone line

Question to the Board Member Councillor Hollingsworth

- a) Has any contact taken place between Oxford City Council and the Department for Transport over specific enforcement action in this matter? If not why not?
- b) Is Oxford City Council aware of the Government's response to questions in the Lords of September 2015 (HL1855), in which it confirmed that local planning authorities have "broad powers to impose conditions and enforce where they consider that conditions have been breached"?

Written Response from Councillor Hollingsworth

- a) No. Regrettably, we do not have the support of the Secretary of State for Transport. It has been reported that Nicola Blackwood MP and local residents believe that the

DfT has offered the Council guidance throughout the process of discharge of the EWRP1 planning conditions. And that the substance of DfT guidance is that the Council can impose any condition, including speed restrictions that it deems necessary to get Network Rail (NR) to achieve acceptable noise and vibration levels

There has been no contact by DfT in relation to EWRP1, or offer of advice to officers or Councillors, other than the visit of the previous rail minister Claire Perry on 5th March 2015. Officers wrote (21st September 2016) to the DfT for clarification of two elements of the TWAO decision (monitoring; and amending the Secretary of State's decision) but have not yet had a reply. The Council has offered a briefing to the MP and will be writing to confirm the position as the Council sees it currently.

There are ongoing discussions between officers and the DfT about the Oxford Station redevelopment. These do not address the conditions of the EWRP1 deemed planning permission. DfT officials have informally indicated previously as a general principle that they are not supportive of conditions which may increase cost and restrict the development of the railway.

- b) Yes. However, the Council cannot pursue enforcement action ahead of the occurrence of a breach of planning conditions and the courts would not give us an injunction. Further, national planning policy does not support the Council taking enforcement action whilst there is a possibility that the position might be still be resolved by other routes; in this case Network Rail has submitted fresh planning applications and information. As a matter of principle, the courts would not support the Council acting ahead of considering this information and determining these planning applications.

There was no further response from Councillor Hollingsworth at the meeting.

4. Question from Lady Jackie Grey – Network Rail and Oxford – Marylebone line

Question to the Board Member Councillor Hollingsworth

- a) The World Health Organisation has issued guidance on noise pollution. Residents living along the rail corridor will be subject to noise pollution well in excess of those guidelines. What is the Council's fiduciary duty to protect the health of residents from the damaging effects of noise and air pollution?
- b) We believe that Network Rail has clearly been manipulating the planning system in order to undermine Condition 19. It and its subcontractors have also been found to be in breach of the Code of Construction practice on numerous occasions. Has the Council taken these matters up with the Rail Minister and the Local Government Minister?

Written Response from Councillor Hollingsworth

- a) Information provided by NR/ERM and verified by Independent Experts indicates that the WHO guidelines will not be exceeded once mitigation measures are in place. There is no single duty to this effect though there are a number of statutory duties for example those under Part III of the Environmental Protection Act 1990 in respect of statutory nuisance and the Licensing Act 2006 in respect of public nuisance.
- b) We are aware of two occasions where generators were left on overnight in breach of the Code of Construction Practice. These were subject to a full investigation and improvement measures to prevent a recurrence were required. No further breaches have been established. No external recourse would therefore be justified

There was no further response from Councillor Hollingsworth at the meeting.

5. Question from Liz Sawyer – extension to Seacourt Park and Ride

Question to the Board Member Councillor Hollingsworth

Good evening. I pose a question in two parts to the Leader of the City Executive Board:

Part A:

You have heard this evening from Simon Collings of the Oxford Flood Alliance about the serious flaws of the plan to expand the Seacourt Park and Ride facility into flood plain. The planning application does not include any parallels of similar schemes, despite a direct request from OCC to do so. This is not surprising, since the proposal contravenes both local and national planning guidance, so similar developments have simply not been permitted elsewhere. National planning guidance is in part designed to protect public safety, and this proposed car park risks endangering the public. The new extension area will flood more often than the existing car park, and to more dangerous depths because it is situated much lower (by a metre). Furthermore, the emergency evacuation plans are irresponsible and dangerous. They state that the P&R is not going to be supervised during a flood. The emergency measures propose messaging people to inform them of the rising water levels, a move which will actively draw people to an unsupervised car park where there are rising flood waters. They propose closing the new, lower car park in times of flood merely by putting up signs. This may not sufficiently deter some people, who may have returned at short notice after receiving a warning message, from attempting to enter the car park and trying to rescue their cars, in rapidly deepening water, before the flooding worsens. The level of risk that the council is delegating to the public in this instance is far beyond that usually covered by the liability for car parks in which the users park 'at their own risk.'

The City Council may be guilty of gross negligence with regard to public safety if it permits this planning application to go ahead, knowingly in contravention of national and local planning guidance. **What legal advice has the applicant taken in this regard?**

Part B:

The City Council already applied to extend the Park and Ride onto exactly this same site, in 1997. This plan was rejected, after an appeal, by the Secretary of State in 1999, due to the land's being flood plain and Green Belt. The reasons stated then were: "The Secretary of State agrees... that the main issues in this case relate to the effect of the development on the Green Belt and countryside, traffic impact and the effect on flooding. He agrees with the Inspector that the proposed extension to the park and ride is inappropriate development in the Green Belt. The Secretary of State agrees ... that the development would conflict with the purposes of the Green Belt... by reducing openness, extending urban sprawl and encroaching into the countryside. The use would also fail to retain and enhance the landscape where people live.... He shares the Inspector's opinion that... the development would appear as an unnatural extension into the wider landscape, and would be difficult to screen, especially at night... [and he] considers therefore that the harm to the Green Belt would be substantial."

The land is still Green Belt, still Flood Plain; what is the justification for trying once again to develop this site, when the same reasons for rejecting the proposal will still apply today as they did nearly 20 years ago?

Councillor Hollingsworth said that a written response would be supplied after the meeting.

Written Response from Councillor Hollingsworth, circulated after the meeting.

Question A

The City Council has not taken legal advice on this specific issue as the project team has engaged extensively with both Environment Agency, the Lead Local Flood Authority (Oxfordshire County Council) and the Local Planning Authority. The advice given and accepted is to adopt a robust emergency plan, which has been done. The sufficiency and robustness of the submitted plan will be tested through the planning process and any further advice given by the Environment Agency and or Emergency Planning authorities will be taken into account.

Question B

The application that was previously refused was nearly 20 years ago and since then national and local planning policies and other relevant factors such as the current parking and transport needs of the city have changed. Historic rejections do not preclude the submission of future applications. New applications are considered on their merits against current national and local planning policy and the local development plan. In addition new material considerations may be submitted in relation to layout, access, landscaping, materials, ecology and other issues.