Minutes of a meeting of the WEST AREA PLANNING COMMITTEE on Tuesday 21 February 2017

www.oxford.gov.uk OXFORD CITY COUNCIL

Committee members:

Councillor Upton (Chair)
Councillor Landell Mills (Vice-Chair)
Councillor Cook
Councillor Curran
Councillor Fooks
Councillor Pegg
Councillor Price
Councillor Tanner
Councillor Henwood (for Councillor Hollingsworth)

Officers:

Michael Morgan, Lawyer

Adrian Arnold, Development Management Service Manager

Robert Fowler, Planning Team Leader

Fiona Bartholomew, Principal Planner

Patsy Dell, Head of Planning & Regulatory Services

David Stevens, Principal Environmental Health Officer

Catherine Phythian, Committee Services Officer

Apologies:

Councillor(s) Hollingsworth sent apologies.

100. Declarations of interest

Agenda items 4 & 5

Councillor Upton drew the Committee's attention to a statement in the North Oxford Labour News Winter 2016 leaflet which referenced local Labour councillors' insistence that NR honours its mitigation commitments. She explained that the leaflet was specifically about the track south of Aristotle Lane (section I-2) which was not part of the current applications before the Committee.

Agenda item 6

Councillor Upton and Councillor Cook as Oxford City Council appointed trustees for the Oxford Preservation Trust.

101. East West Rail Phase 1 - 2 applications

Discussion

The Committee considered two applications for the Noise Scheme of Assessments: H 16/02507/CND for route section H and 16/02509/CND for route section I-1.

The Planning Officer presented the report. In summary she explained the nature of the applications and the officer advice as set out in the report to committee. She explained that Network Rail (NR) had resubmitted the approved Noise Scheme of Assessments with additional information so that the issues around the conditions imposed on previous approvals of those schemes concerning rail damping and restricting rail services can be reconsidered. This was regarded as best practice being an attempt to eliminate or minimise outstanding differences between the applicant and the planning authority.

The Planning Officer explained that the Council had consulted Queen's Counsel on the two applications and had asked Arup to comment on specific technical matters in NR's Supplementary Statement. That technical advice from Arup was taken into account by Queen's Counsel.

The Planning Officer then referred the Committee to the key points in the advice from Queen's Counsel:

Rail damping

- The NVMP does not require 'at source' mitigation if the other measures already provided will achieve the objectives of the NVMP
- "At source" is preferred but where it is not sufficient to mitigate noise impacts or not reasonably practicable, other measures will be considered – there is no suggestion that if not sufficient "at source" has to be used first and then additions to it provided"
- [the NVMP] "cannot be construed as requiring both [barriers and rail damping] to be provided"
- In respect of residual noise a "significant impact" means 5dB or above
- Rail damping may mitigate noise impacts by 2.5dB
- A 3dB difference is at the margin of perceptibility
- The NVMP standards concern internal, not external noise levels
- For those who already have noise insulation, open window noise will be reduced
- At one house there will be noise reduction from 5db to less than 3db

Train services

- the NVMP does not require any assessments to address any future increases in service and these potential changes do not need to be modelled

- NR can increase services without being in breach of condition 19 of the deemed planning permission, and do not need to seek further consent

The following residents spoke against the two applications: Mike Gotch, Michael Drolet, Jackie Gray, Adrian Olsen, Jeremy Thorowgood and Paul Buckley.

Representatives from Network Rail, Ian Gilder and Paul Panini, were present to answer questions relating to the application.

The Committee asked questions of the officers and Network Rail representatives about the details of the two applications.

In reaching its decisions, the Committee considered all of the information put before it.

In debate members of the Committee indicated that they were not minded to accept the officer recommendation to approve the schemes of assessment without conditions relating to rail damping and restriction of train services. This was because they did not consider that NR had demonstrated to the satisfaction of the Council that the provision of rail damping was not reasonably practicable and they were concerned that the modelling did not reflect the possible future increase in train services.

The meeting adjourned at 7.35pm to allow officers to consider the likely consequences should the Committee reject the officer recommendation to approve the two applications and to provide advice as to the risks and issues that might arise in that event.

Councillor Price left the meeting at 7.35pm.

The meeting reconvened at 7.45pm.

Decisions

When the meeting resumed the Planning Officer advised the Committee that if they were minded to go against the officer recommendation then rather than refuse the applications it would be more procedurally appropriate to approve the Noise Scheme of Assessment applications subject to the original conditions requiring rail damping and a restriction on train services. It was also clarified that a condition requiring the development to be carried out in accordance with the submitted details should also be imposed.

The Head of Planning & Regulatory Services reminded the Committee that a vote against the officer recommendation was likely to prompt NR to launch an appeal and that there were potential risks of an adverse award of costs against the Council from the decision. If that was the case then the officers involved in the NR applications would not be able to support those decisions at appeal as the position of the Council at appeal would be irreconcilable with the professional advice provided by those officers. The Council would need to appoint a new team of advisers to support those members of the Committee presenting the Council's case at appeal.

A proposal was made and seconded that the two applications be approved subject to the previous conditions on rail damping, restricting train services and works in accordance with the submitted details, the reasons for imposition for those conditions being the same as provided in the context of the previous approvals.

On being put to the vote a majority of the Committee agreed that proposal.

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

The Committee resolved to **approve** application 16/02507/CND and condition 19 be partially approved in relation to the Noise Schemes of Assessment for route section H for the reasons stated in the report and subject to the following amended conditions which have been imposed for the reasons stated:

1. Development in accordance with submitted details

   The development is to be carried out strictly in accordance with the documents titled "Noise Scheme of Assessment for Route Section H" (ref 0221083/11/H06) dated 6 March 2015; the ERM further technical note submitted to the Council on 5 May 2015 titled "Technical Note to Provide Information on the Effect of Relocating the Woodstock Road Crossover (ref 0221083/H07) and drawing numbers 0221083_SecH_Sheet24_Ver1,0221083_SecH_Sheet25_Ver1, 0221083_SecH_Sheet26_Ver1 and 0221083_SecH_Sheet27_Ver1 all dated May 2015. In the event of conflict between these drawings and other documents the four May 2015 drawings shall prevail and as between the other documents the later produced document shall prevail.

   Reason: the Noise Scheme of Assessment has been prepared upon the basis of these details and deviation from them would not necessarily result in the standards of vibration mitigation required by the Noise and Vibration Mitigation Policy (January 2011) being achieved.

2. Within three months of this partial approval under condition 19 of the deemed planning permission, proposals shall be submitted for the written approval of the local planning authority showing how at-source noise attenuation by rail dampening to at least the standard achievable by the use of Tata Silentrail can be incorporated into the scheme. The development to which this approval relates shall not be brought into operation EITHER without that written approval having been obtained and other than in accordance with such approved details OR without the Council having given written confirmation that it is satisfied that the provision of such rail dampening is not reasonably practicable.

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

3. Passenger train movements on Section H between 0700 hours and 2300 hours shall not be in excess of 8 movements per hour. Freight train movements between 2300 hours 0700 hours on the following day shall not exceed 8.

   Reason: to ensure compliance with condition 19 of the planning permission deemed to have been granted (ref TWA/10/APP/01)

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

The Committee resolved to **approve** application 16/02507/CND and condition 19 be partially approved in relation to the Noise Schemes of Assessment for route section H for the reasons stated in the report and subject to the following amended conditions which have been imposed for the reasons given:

1. The development is to be carried out strictly in accordance with the documents titled "Noise Scheme of Assessment for Route Section 1/1, Main Report" and "Annexes A-E and G" (ref 0221083/11.11-07) dated 2nd December 2015; "East-West Rail: Baseline Acoustic Survey, Network Rail" (ref 5114534 2015/May/06) dated 20th July 2015; the further details contained in the report (and Appendix 1 to the report) of the Independent Expert darea- 1st December 2015; and Figures 1.1 (version A01, dated 04/08/2015) 5.1a (version A02 dated 06/08/2015) 5.1b (version A02 dated 28/09/2015) and 5.2 (version A01, dated 06/08/2015). In the event of conflict between these drawings and other documents the four August/September 2015 drawings shall prevail; and as between the other documents, the later produced document shall prevail.

   Reason: the Noise Scheme of Assessment has been prepared upon the basis of these details and deviation from them would not necessarily result in the standards of noise mitigation required by the Noise and Vibration Mitigation Policy (January 2011) being achieved.

2. Within three months of this partial approval under condition 19 of the deemed planning permission, proposals shall be submitted for the written approval of the local planning authority showing how at-source noise attenuation by rail dampening to at least the standard achievable by the use of Tata Silenttrack can be incorporated into the scheme. The development to which this approval relates shall not be brought into operation EITHER without that written approval having been obtained and other than in accordance with such approved details OR without the Council having given written confirmation that it is satisfied that the provision of such rail dampening is not reasonably practicable.

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

3. Passenger train movements on Section I-1 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)

104. 16/03166/FUL: Junction Of Headington Road and Morrell Avenue, Oxford

The Committee considered a report detailing an application (16/03166/FUL) for planning permission for the installation of a stone memorial at the junction of Headington Road and Morrell Avenue, Oxford.

The Planning Officer presented the report. He referred the Committee to paragraph 7 of the officer's report and advised them that the main determining issues for the application were:

- Principle
- Location, form & design and impact heritage assets
- Trees
- Highways

He said that planning permission was granted in 1981 for a statue of an Ox on this land which supported officers' view that this would be a suitable location for a piece of art work or memorial. The memorial at 1.8m high, 1m wide and 30cm deep was considered appropriately proportioned in size in relation to its setting within this open area.

He referred the Committee to the additional comments that were received since the publication of the report. Firstly, an additional response was received in support of the application from Colin Caritt from the International Brigade Memorial Trust. Additional objections and comments were also received from Councillor Wade, the Friends of South Park, Oxford Preservation Trust and Councillor Hollingsworth. All of these responses were circulated to the Committee in advance of the meeting.

The Committee noted that the application had been called-in on the following grounds:

1. it is a controversial application and should be considered in public
2. size, design, materials and impact on views into and out of Oxford

The following individuals spoke against the application: Debbie Dance (Oxford Preservation Trust), Cllr Wade, Alexander Haydon, Alison Boulton, Barbara Foran, Cllr Azad, Richard Martin and Trevor Mostyn.

Colin Carritt (agent) and Cllr Hayes spoke in support of the application.

In reaching their decision, the Committee considered the officers' report and presentation and the address of the public speakers. In debate the Committee noted the following points:

- that the style, design and location of the proposed memorial had, as was often the case with public art installations, generated considerable public debate
- the strength of opinion both for and against the proposed memorial in terms of its political and religious context while recognising that this was not a material planning consideration

- notwithstanding the grant of planning permission the applicant would still require approval from the City Council, as landowner, to actually site the memorial
- that the current application did not include the provision of benches
- concerns that the subsequent introduction of benches might lead to an increase in anti-social behaviour
- the City Council, as landowner, had permitted development rights to install benches at the site

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

The Committee resolved to **approve** planning permission (16/03166/FUL) for the proposed memorial stone at the junction of Headington Road and Morell Avenue, for the reason(s) set out in the report and subject to the (amended) conditions and informative listed below:

Conditions:

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

Informative: that the applicant and landowner should seek to come to an agreement regarding a maintenance regime.

105. Minutes

The Committee resolved to **approve** the minutes of the meeting held on 24 January 2017 as a true and accurate record.

106. Forthcoming applications

The Committee noted the list of forthcoming applications.

107. Dates of future meetings

The Committee noted the dates of future meetings.

The meeting started at 6.00 pm and ended at 9.00 pm