

## Minutes

### MAJOR APPLICATIONS PLANNING SUB-COMMITTEE (HS2)

12 March 2018



HILLINGDON  
LONDON

Meeting held at Committee Room 5 - Civic Centre, High Street, Uxbridge UB8 1UW

	<p><b>Committee Members Present:</b> Councillors Ian Edwards (Chairman), Eddie Lavery (Vice-Chairman), Roy Chamdal, Janet Duncan, John Oswell, Brian Stead and David Yarrow</p> <p><b>LBH Officers Present:</b> James Rodger (Head of Planning, Transportation and Regeneration), Rajesh Alagh (Borough Solicitor) Anisha Teji (Democratic Services Officer) and Ian Thynne (Planning Specialists Team Leader)</p>
12.	<p><b>APOLOGIES FOR ABSENCE</b> (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
13.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
14.	<p><b>TO SIGN AND RECEIVE THE MINUTES OF THE PREVIOUS MEETING</b> (<i>Agenda Item 3</i>)</p> <p><b>RESOLVED:</b> That the minutes of the meeting on 23 November 2017 be approved as a correct record.</p>
15.	<p><b>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT</b> (<i>Agenda Item 4</i>)</p> <p>None.</p>
16.	<p><b>TO CONFIRM THAT THE ITEMS MARKED IN PART 1 WILL BE CONSIDERED IN PUBLIC AND THOSE ITEMS MARKED IN PART 2 WILL BE HEARD IN PRIVATE</b> (<i>Agenda Item 5</i>)</p> <p>It was confirmed that all items would be considered in public.</p>
17.	<p><b>COLNE VALLEY VIADUCT, WETLANDS ECOLOGICAL MITIGATION SITE, HARVIL ROAD, HAREFIELD - 73263/APP/2017/3838</b> (<i>Agenda Item 6</i>)</p> <p><b>Plans and Specifications submission under Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017 for an ecological mitigation scheme comprising earthworks, including one no. mitigation pond, two no. hibernaculum and one no. reptile basking bank, together with permanent fencing and one field gate.</b></p> <p>Officers introduced the report and took the Committee through the plans.</p>

Officers considered the proposal and made a recommendation for refusal for the following two reasons:

1. That the design or external appearance of the works ought to, and could reasonably, be modified to preserve a site of archaeological or historic interest conservation value; and
2. The development did not form part of a schedule work, within the meaning of Schedule 1 of the HS2 Act, and that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

Both of these refusal reasons were in the interests of preserving a site of archaeological priority and a nature conservation value. The default position was on the applicant to demonstrate how these two factors had been preserved.

In terms of ecology, the recommendation for refusal stemmed from the assertion that the site was recently ploughed in 2017 and in 2016. HS2 had indicated that there had been communications with the land owner; however these communications had never been presented to the Council. The Council's records indicated that the last time this site was ploughed was in 2014. The applicant had not presented ecological assessments for the site, no surveys and no information regarding ecology. Consequently, Members were informed that the default position was that the site needed to be preserved. Officers informed the Committee that HS2 had indicated that a site visit had been carried out towards the end of 2017 and there was an acceptance that the site had ecological value.

Officer had concerns about locating a pond that could impact existing locations. There was a lack of information in relation to ponds.

Parliament through the Act had tasked local councils with preserving archaeology in nature conservation sites. In this instance, there was lack of information to make this assessment.

Before opening the item for discussion, the Chairman informed Members that over the weekend he had received a letter from HS2's solicitors detailing legal arguments as to why the officer's recommendation was wrong. It was a dense legal document and the Chairman sought advice from the Borough solicitor. In the Chairman's opinion, it was reasonable for the Committee to take the view that it needed more information to determine the risks in relation to both aspects of recommended refusal reasons. The Chairman formed the view that in the absence of information it was difficult to make an informed decision that these works should be permitted as the risks were not clear or understood. The Chairman questioned the completeness of the information provided.

The Borough Solicitor summarised that the applicant submitted that the application should be approved as there were a number of other processes and procedures which allowed for full archaeological or ecological evaluations to take place. The HS2 Act was only 13 months old and there was an absence of precedence or case law which meant that a lot rested on interpretation. The Borough Solicitor advised that it was a dangerous precedent for a Committee to consider an incomplete application. Reasonable inference could be drawn, in the absence of sufficient information, that the design or external appearance could be modified to preserve archaeology and ecology. This was not a scheduled work and the Borough Solicitor confirmed that it was officer's view that this work could be reasonably carried out elsewhere within the development's permitted limits. There was no other evidence to the contrary. Finally, the Borough Solicitor stated that he believed that his interpretation was in accordance with, not only established public law principles concerning local authority decision making, but also

the intention of the HS2 Act. There did not appear to be anything within the Act which would allow HS2 Ltd to submit incomplete Schedule 17 applications and then argue that the Environmental Minimum Requirements would correct any gaps at a future date. Members were only able to determine applications based on the information before them and they should not be expected to second guess what events may transpire after the determination of a particular application.

Members considered the reports and recommendation. Members questioned the limited details provided on the fence and asked if there was more information that could be provided. Officers advised that the design of fence could not be considered under Schedule 17. The HS2 Act only allowed for comments on the root of the fence, but not the design of the fence.

Members accepted the constraints of the HS2 Act and considered the grounds for refusal. There was a clear case that the works could be modified, there was insufficient information to determine the risk and there was a possibility that the work could take place somewhere else. Members concluded that the application lacked evidence.

The officer's recommendation was moved, seconded, and upon being put to a vote was unanimously agreed.

**RESOLVED: That the application be refused as per officer's recommendation.**

18. **HP06 COMPOUNDS, HARVIL ROAD - 73195/APP/2018/216** (*Agenda Item 7*)

**Lorry route submission under Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017 relating to Cadent Gas HP06 North and South compounds off Harvil Road, associated with a gas pipeline diversion: M40 to Harvil Road.**

Officers introduced the report which included a submission for a lorry route. It was explained that the Council was being asked to consider a route for large goods vehicles (LGV) and for the approval of a route that would be subjected to more than 24 vehicles a day. The Local Transport Traffic Management Plan (TLTTMP) had informed officers' opinion, although not formed part of this submission.

Members were informed that between mid March 2018 to April 2018, the estimated number of LGVs would be up to 40 per day during the construction of a gas pipeline. Officers confirmed that TLTTMP was considered acceptable to officers in the highways department. A large percentage of vehicles would be coming from Skip Lane which meant that there would be minimum action in Harville Lane.

Before opening the item for discussion, the Chairman reminded the Committee of the limited remit of the Sub - Committee, due to the Act of Parliament. He explained that conditions could not be imposed however informatives could and action could be taken against breaches.

Members confirmed that in the report it stated that the works would take five days, and take place during the Easter holiday period. However, in the informative there was only reference to the TLTTMP. Members questioned whether the TLTTMP included that the works be done in the Easter holidays. Officers explained that HS2 had not specified a specific figure, only more than 24 vehicles. In the future there could be numbers as high as 400 vehicles mentioned in the supporting TLTTMP; however the approval would still only be for just more than 24 vehicles. All the details in relation to the Easter working would be included in the TLTTMP. Officers confirmed that it was not

appropriate to specify that information in the informative however it linked to TLTTMP, which was a very important and informed decisions.

The officer's recommendation was moved, seconded, and upon being put to a vote, was unanimously agreed.

**RESOLVED: That the application be approved as per officer's recommendation, subject to the informative that the application has to happen in accordance with the Local Transport Traffic Management Plan.**

The meeting, which commenced at 6.00 pm, closed at 6.33 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Anisha Teji on 01895 277655. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

**The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.**