

Minutes

MAJOR APPLICATIONS PLANNING SUB-COMMITTEE (HS2)

29 October 2020



Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London

	<p>Committee Members Present: Councillors Steve Tuckwell (Chairman) Eddie Lavery (Vice-Chairman) Nicola Brightman Becky Haggard Janet Duncan (Opposition Lead) John Oswell John Morgan</p> <p>LBH Officers Present: Raj Alagh, Borough Solicitor Liz Penny, Democratic Services Officer James Rodger, Head of Planning, Transportation and Regeneration Ian Thynne, Planning Specialists Team Manager</p>
18.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
19.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
20.	<p>TO SIGN AND RECEIVE THE MINUTES OF THE PREVIOUS MEETING DATED 24 JUNE 2020 (<i>Agenda Item 3</i>)</p> <p>RESOLVED: That the minutes of the meeting dated 24 June 2020 be approved as an accurate record.</p>
21.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
22.	<p>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 (<i>Agenda Item 5</i>)</p> <p>It was confirmed that all items were in Part I and would be considered in public.</p>

23. **ECOLOGICAL MITIGATION SITE, HARVIL ROAD - 73195/APP/2020/1946** (*Agenda Item 6*)

Request for approval of Plans and Specifications under condition imposed by paragraphs 2 and / or 3 to Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 for works comprising the erection of a bat house.

Officers introduced the application noting that the erection of a bat house was intended to offset the harm to bat populations in the local area resulting from the demolition of Dews Cottages. The proposed bat house was considered to be an appropriate habitat for bats; it would be a sizeable structure located near to woodland. The recommendation was to approve the application subject to a non-standard informative.

The Borough Solicitor addressed the Committee stating that this was a straightforward application submitted by HS2 under paragraph 2 of Schedule 17 of the High Speed 2 Act. Members were informed that, in July 2020, the Court of Appeal had issued a judgement in relation to a Schedule 17 paragraph 3 application dating back to 2018. The Court of Appeal had offered some useful guidance as to how to interpret Schedule 17. It had been confirmed that local authorities were only obliged to determine an application if High Speed 2 Ltd had provided sufficient information in support of it. In this case, sufficient information had been provided and therefore it would be legitimate for the Sub-Committee to determine the application.

In respect of this application, the Borough Solicitor confirmed that there was a legal requirement for developments consisting of building works to be carried out in accordance with plans and specifications approved by the Council. The application could only be refused on one or more of the usual statutory grounds set out in paragraph 2 of Schedule 17 none of which applied in this case. Members were advised that the Sub-Committee could therefore lawfully approve this application.

Members were pleased to note that the proposed bat house would not be maintained by the local authority. In response to questioning from the Sub-Committee in respect of timescales, it was confirmed that the bat house would be constructed as soon as permission had been granted. The cottages would be demolished at the beginning of 2021. It was noted that the bats would not necessarily relocate to the bat house, but the proposed bat house would offset the harm to bat populations resulting from the HS2 works. Members enquired whether a Condition could be added to ensure that the bat house was completed prior to the demolition of the cottages. It was confirmed that this would not be appropriate given the lack of a direct link between the erection of the bat house and the demolition of the cottages. An informative could be imposed but this could not be enforced in the same way as a Condition.

The Sub-Committee agreed that, in light of legal advice, there were no grounds to add conditions. The officer's recommendation was therefore moved, seconded and, when put to a vote, unanimously agreed.

RESOLVED: That the application be approved, subject to the following informative:

- 1. The proposed development includes measures relating to protected species. The proposals must be designed in accordance with any relevant protected species licence and ecological standards for the project.**

24. **BETWEEN RIVER COLNE & G.U.CANAL NORTH OF DENHAM LOCK - 42471/APP/2020/2631** (*Agenda Item 7*)

Request for approval of ‘bringing scheduled works and depots into use’ (Paragraph 9) under Condition imposed by Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 relating to the diversion of the National Grid ZC overhead power line in the Colne Valley (Schedule 1 Work No. 2/4B – a temporary bridge over the River Colne).

Officers presented the application noting that it related to scheduled works approved by Parliament. Members were advised that scheduled works had to be brought before the local authority planning committee prior to being brought into use. The proposed bridge would be a sizeable structure with concrete footings; however it was confirmed that it would be temporary and would be removed at a later stage. Some surrounding vegetation would have to be removed but the impact was relatively small. It was noted that the Environment Agency had given consent and all mitigation measures had been, or would be, employed to offset any harm caused by the works.

The Sub-Committee was advised that the principal concerns related to the ecological impact as a result of eastern abutment and the flood risk due to impacts on water conveyance. In terms of the ecological impact, a method statement had been submitted setting out how HS2 Ltd planned to mitigate harm. With regards to the flood risk, the Environment Agency had raised no objections or concerns. The recommendation was to approve the application subjective to an informative.

The Borough Solicitor addressed the Sub-Committee advising Members that sufficient information had been submitted by HS2 Ltd in relation to this application. On the basis of all the information before the Sub-Committee, it was clear that the bridge was of a temporary nature. It had also been described as such in Schedule 1 of the High Speed 2 Act. Should it later transpire that it was in fact a permanent structure, the bridge would have been incorrectly described and Parliament misled. The Council could then take enforcement action under its powers under the Town and Country Planning Act.

The Borough Solicitor informed Members that this was a straightforward application governed by Paragraph 9 of Schedule 17 of the Act. It was confirmed that Paragraph 9 set out two situations in which the Council must approve an application – in this case there were no reasonably practicable measures for mitigating the effect on the environment or local amenity that needed to be taken into account. Paragraph 9 also set out the statutory grounds for which the application could be refused. No grounds for refusal existed in this case. It was confirmed that it was lawful for Members to agree the officer’s recommendation for approval.

In response to questioning from the Sub-Committee, the Borough Solicitor advised that it would be difficult to justify the imposition of a Condition in relation to the lifespan of the temporary bridge, since the Council would have to be satisfied that it was expedient to do so on the grounds that the scheme ought to be modified to preserve the local environment or local amenity, to preserve a site of archaeological or historical interest or in the interests of nature conservation and that the scheme was reasonably capable of being so modified. There was no evidence before the Sub-Committee that any of these factors applied and it would therefore not be lawful to impose a Condition in this case.

Members noted that the proposal was for the bridge to be in use for 15 months. Should it continue to be in use after the 15 months had elapsed, the matter could be discussed again at that time.

The Sub-Committee sought further clarification since only one informative had been mentioned in the report but two had been referenced in the presentation. It was confirmed that there was only one informative –the method statement was being brought into line with the details submitted as part of the application. If HS2 Ltd did not comply with the method statement, enforcement action could be taken.

The Sub-Committee agreed that, in light of legal advice, there were no grounds for refusal. The officer's recommendation was therefore moved, seconded and, when put to a vote, unanimously approved.

RESOLVED: That the application be approved, subject to the following informative:

- 1. The proposed development includes measures relating to protected species. The proposals must be designed in accordance with any protected species licence and ecological standards for the project.**

The meeting, which commenced at 6.00 pm, closed at 6.45 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Liz Penny on 01895 250185. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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