

Item No. Report of the Head of Planning and Enforcement

Address: RIVER COLNE, RIVER ALIGNMENT MOORHALL ROAD HAREFIELD

Development: Request for approval of plans and specifications under condition imposed by Schedule 17 to the High Speed Rail (London - West Midlands) Act 2017 relating to earthworks associated with the realignment of the River Colne.

LBH Ref Nos: 76182/APP/2021/399

Drawing Nos:	Date of Plans:
1MC05-ALJ-TP-DSE-CS01_CL01-129020 - Long Sections(29-01-2021
1MC05-ALJ-TP-DPL-CS01_CL01-129002 Sch 17 Existing	29-01-2021
1MC05-ALJ-TP-DPL-CS01_CL01-129001 Sch 17 Loction P	29-01-2021
1MC05-ALJ-TP-DPL-CS01_CL01-129003 Sch 17 Detailed	29-01-2021
1MC05-ALJ-TP-DSE-CS01_CL01-129009 Rev. CO2 SHEET 2	23-03-2021
.1MC05-ALJ-TP-DSE-CS01_CL01-129008 CO2 SHEET 1	23-03-2021
1MC05-ALJ-TP-CRO-CS01_CL01-000028 Covering Letter	29-01-2021
1MC05-ALJ-TP-REP-CS01_CL01-001013 Written Statement	23-03-2021

Drawing Nos:	Date of Amended Plans:
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Date Application Valid: 2nd February 2021

1. SUMMARY

This application comprises a Plans and Specifications submission under Schedule 17 of the HighSpeed Rail (London-West Midlands) Act 2017 (The Act), in relation to the realignment of the River Colne between Piers P38 and P39 of the Colne Valley Viaduct, to enable the channel to pass between the two proposed piers.

In terms of design, Officers cannot see any other reasonable modifications that would reduce or remove the harm on the local environment, whilst still facilitating the delivery of the approved scheme.

The proposal will not have a significant effect on heritage assets of archaeological interest and the question of amending the design to preserve an archaeological site does not therefore arise.

With regard to ecological impacts, Natural England raises no objections to the proposed works and considers that the proposal will not have significant adverse impacts on statutorily protected sites or

landscapes. Similarly, the Environment Agency raises no objections or concerns to this proposal and confirms that the works will preserve the nature conservation value of the area and not adversely impact the ecological value of the locality.

It is not considered that the works will have any detrimental impact on road safety or the free flow of traffic in the local area, whilst the works will not increase the risk of flooding to people and property.

With the above considerations in mind, the submission is considered to accord with the grounds for determination set out in Schedule 17, Paragraph 3 to the HS2 Act.

2. RECOMMENDATION

APPROVAL

INFORMATIVES

1. I99 Non Standard Informative

The nominated undertaker is required to work with the Council to improve the restoration of the land once HS2 is operational. The diversion of the River Colne to accommodate the Viaduct will form part of a wider landscape restoration and no-net ecological loss across the Colne Valley. The lasting legacy of HS2 must be positive and reflected in future restoration and bringing into use applications.

3. CONSIDERATIONS

3.1 Site and Locality

The River Colne is on the western side of the Colne Valley and generally flows from north to south. It runs parallel with the Grand Union Canal to the east, and joins the River Thames at Staines-upon-Thames.

The area of the works to the River Colne falls in an area of natural riverine landscape within the Colne Valley. The open waterbodies of the Broadwater Lakes Nature Reserve, Long Pond and Harefield Moor Lake are directly to the east of the site. To the west of the site are wooded areas at Battlesford Wood and Ranston Covert.

The wider area is semi-rural floodplain characterised by large waterbodies, agricultural fields and woods. The nearest residential receptors are located approximately 300m to the south at the Denham Film Studios redevelopment. Beyond this is Denham Garden Village. South Harefield is located 750m to the east.

The River Colne defines the boundary between the London Borough of Hillingdon to the east and Buckinghamshire Council to the west. Therefore, the site straddles the boundary between the two authorities. Consequently, this is a joint application to both planning authorities.

The site falls within the Mid Colne Valley Site of Special Scientific Interest (SSSI) which is of national value. The site is within the Green Belt and is designated a Nature Conservation Site of Metropolitan or Grade I Importance. The site is also within Flood Zone 3.

3.2 Proposed Scheme

The realignment of the River Colne is identified under the HS2 Act as Schedule 1 works, being: Work No. 2/5 - A diversion of the River Colne commencing at a point 644 metres north-west of the bridge carrying Moorfield Road over that river and terminating at a point 156 metres north of its commencement

Specifically, the River Colne requires realignment between Piers P38 and P39 of the Colne Valley Viaduct to enable the channel to pass between the two proposed piers. The delivery of the detailed scheme will be approved/consented under both Schedules 17 and 33 to the HS2 Act.

This Schedule 17 submission provides the specific details of the watercourse realignments insofar as they relate to the layout, relationship with the viaduct and landscape earthwork arrangements. Therefore, the documentation includes the following details for approval:

- Plans and sections of the earthworks, showing the detail and levels of the proposals.

Information provided in support of this Schedule 17 submission, but not for approval, are:

- Planning Written Statement, providing the background and justification for the proposal;
- Detailed plans and sections supporting the Sch. 33 submission, the earthwork levels of which are also subject to approval under Schedule 17, noted above.
- Flood Model Reporting, summarising the flood model supporting the Sch. 33 submission; and
- Indicative Mitigation Consultation Letter, explaining the illustrative landscape plan and seeking the Local Planning Authority comments on it.

The total length of the realignment is 190m however improvements to the river will occur over an overall length of 420m.

The realignment itself will begin at a point approximately 40m to the north of Pier P39 and then will be returned to the existing river bank at a point roughly 10m to the north of Pier P37. The channel banks adjacent to Piers P39 and P38, i.e. the closest to the watercourse, require hard reinforcement covered with topsoil to encourage vegetation growth or sheet piling set back from the river bank respectively.

Six 'berms' (marginal aquatic shelves supporting wetland plants) will be located in the channel to assist the flow of water along the new alignment. These will be filled with pre-planted coir rolls and natural material such as earth and woody material. The berms coupled with the detailed channel

design show that the lateral shift in the course of the river has reduced from what was anticipated in the ES.

The specific location of the 'berms' are for EA approval and do not form part of the Schedule 17 Plans and Specifications for local authority approval. They do not constitute 'earthworks' and will be below the waterline of the river. They do however fulfil an important landscape and ecological mitigation function. Further detail on the finish of the berms will be provided with the Bringing Into Use submission to show that the works to mitigate the River Colne realignment, have been appropriately planned.

A nominal access width alongside Pier P38, for channel monitoring and maintenance purposes will also be provided.

Most of the works relating to the permanent river design and water flow, as well as temporary works to deliver them are for EA approval under the Schedule 33 submission. The long term landscape earthwork elements are for local planning authority approval under Schedule 17. The wider restoration of the landscape, following construction, will be subject to future approval under Schedule 17 to the HS2 Act by the local planning authority.

3.3 Relevant Planning History

The High Speed Rail (London - West Midlands) Act 2017 ('the Act') provides powers for the construction and operation of Phase 1 of High Speed Two. HS2 Ltd is the nominated undertaker in relation to the works subject to this Plans and Specifications submission. Section 20 to the Act grants deemed planning permission for the works authorised by it, subject to the conditions set out in Schedule 17. Schedule 17 includes conditions requiring the following matters to be approved or agreed by the relevant LPA.

- Construction arrangements (including large goods vehicle routes);
- Plans and specifications;
- Bringing into use requests; and
- Site restoration schemes.

This is therefore a different planning regime to that which usually applies in England (i.e. the Town and Country Planning Act) and is different in terms of the nature of submissions and the issues that the LPAs can have regard to, in determining requests for approval.

Schedule 17 of the Act sets out the grounds on which the LPA may impose conditions on approvals, or refuse requests for approval.

HS2 Ltd as the nominated undertaker is contractually bound to comply with the controls set out in the Environmental Minimum Requirements (EMRs). HS2 Ltd as the nominated undertaker is contractually bound to comply with the controls set out in the Environmental Minimum Requirements (EMRs). The EMRs comprise the following suite of documents:

- Code of Construction Practice (CoCP)
- Planning Memorandum
- Heritage Memorandum

- Environmental Memorandum
- Undertakings and Assurances

These controls along with the powers contained in the High Speed Rail (London - West Midlands) Act and the Undertakings and Assurances are designed to ensure that impacts which have been assessed in the Environmental Statement (ES) will not be exceeded. The Environmental Statement (ES) is an assessment of the likely significant environmental effects of the proposed HS2 railway and the proposals to avoid, reduce or remedy these likely significant environmental effects.

4. ADVERTISEMENT AND SITE NOTICE

4.1 Advertisement Expiry Date: Not Applicable

4.2 Site Notice Expiry Date: Not Applicable

5.0 PLANNING POLICES AND STANDARDS

The following Local Plan Policies are considered relevant to the application. In so far as this application is concerned the most pertinent policies applicable to the proposals relate to Green Belt, Biodiversity and Flood Risk Management.

Part 1 Policies:

1. **PT1.EM2 (2012) Green Belt, Metropolitan Open Land and Green Chains**

(2012) Green Belt, Metropolitan Open Land and Green Chains

2. **PT1.EM3 (2012) Blue Ribbon Network**

(2012) Blue Ribbon Network

3. **PT1.EM6 (2012) Flood Risk Management**

(2012) Flood Risk Management

4. **PT1.EM7 (2012) Biodiversity and Geological Conservation**

(2012) Biodiversity and Geological Conservation

5. **PT1.EM8 (2012) Land, Water, Air and Noise**

(2012) Land, Water, Air and Noise

6. **PT1.HE1 (2012) Heritage**

(2012) Heritage

Part 2 Policies:

1. **DMEI 10 Water Management, Efficiency and Quality**

Water Management, Efficiency and Quality

2. **DMEI 11 Protection of Ground Water Resources**

Protection of Ground Water Resources

3. **DMEI 7 Biodiversity Protection and Enhancement**

Biodiversity Protection and Enhancement

4. **DMEI 9 Management of Flood Risk**

Management of Flood Risk

5. **DMHB 1 Heritage Assets**

Heritage Assets

6. **DMHB 14 Trees and Landscaping**

Trees and Landscaping

7. **DMT 2 Highways Impacts**

Highways Impacts

8. **DMEI 4 Development on the Green Belt or Metropolitan Open Land**

Development on the Green Belt or Metropolitan Open Land

9. **LPP G2 (2021) London Green Belt**

(2021) London's Green Belt

10. **LPP G6 (2021) Biodiversity and access to nature**

(2021) Biodiversity and access to nature

11. **LPP G7 (2021) Trees and woodlands**

(2021) Trees and woodlands

12. **LPP G9 (2021) Geodiversity**

(2021) Geodiversity

13. LPP HC1 (2021) Heritage conservation and growth

(2021) Heritage conservation and growth

14. LPP SI12 (2021) Flood risk management

(2021) Flood risk management

15. LPP SI17 (2021) Protecting and enhancing London waterways

(2021) Protecting and enhancing London's waterways

16. LPP SI5 (2021) Water infrastructure

(2021) Water infrastructure

17. NPPF- 13 NPPF 2018 - Protecting Green Belt land

NPPF-13 2018 - Protecting Green Belt land

18. NPPF- 15 NPPF 2018 - Conserving and enhancing the natural environment

NPPF-15 2018 - Conserving and enhancing the natural environment

19. NPPF- 16 NPPF 2018 - Conserving & enhancing the historic environment

NPPF-16 2018 - Conserving & enhancing the historic environment

6.0 COMMENTS ON PUBLIC CONSULTATION

6.1 5 objections have been received which are summarised below:

1. There is an unassessed risk of drawing polluted water directly down gradient into the HOAC Lake eastern extension which is planned for increased flood risk alleviation.

When considering these applications LBH must be sure that the lasting legacy of HS2 in Colne Valley will not be long term pollution of the daily drinking water of 1.3 million people in and around Uxbridge.

2. Just too much environmental damage from a grossly expensive white elephant of a scheme. Will anyone be able to afford to use this new railway?

3. Hillingdon Council have always been concerned about HS2 impacts on the public water supply and they were never given any assurances about this. They could be encouraged to take this up again as the public are seeing the scale and nature of the HS2 disruptions and are getting worried about what will happen to our water supply in the short and long term.

4. The Environment Agency have not determined that the HS2 works in the Colne Valley are compliant with the Water Framework Directive. None of the water risk assessments include assessment of water pollution at the eastern side of the valley from the New Years green Lane landfill site. Therefore this application should be refused.

5. Full ecological surveys and an Environmental Impact Assessment need to be undertaken.

There is currently a court case in process, regarding the danger to the aquifer in the Colne Valley because of HS2 and the viaduct construction.

Civil Contingencies Act 2004 - This could be employed by the local council - HS2 is a danger to public health and the wellbeing of its citizens. .

A current public petition asking for a withdrawal of Royal Assent and a stop and review of HS2 - this has now reached around 150,000 signatures and will be discussed in Parliament.

Ever increasing public concern regarding HS2's:

Environmental damage,

Financial cost,

Impact on climate change,

Impact on health,

Impact of Covid-19 on work patterns and lifestyle choices;

Need to safeguard woodland, green space, reduce pollution for the benefit of the nations wellbeing.

COLNE VALLEY PARK PANEL

The Panel recognises that this re-alignment of the River Colne has featured as part of the railway design since its outset and was considered in the accompanying Environmental Assessment.

The Panel acknowledges that the construction of the railway viaduct could have resulted in a parapet having to be built within the river channel, which would itself be undesirable and have serious potential adverse implications for the river and its environment and that the design option was chosen because it also reduced the impact of additional parapets. However, we wish to raise two concerns about the application as it currently stands:

·Reliance on illustrative design proposals for mitigation.

·Provision for Public Access - exclusion of some design details that are relevant to the longer term mitigation of the railway's impact on the application land.

Illustrative Design/Mitigation

The application presents "illustrative design" and "illustrative mitigation" and relies on landscape mitigation design being provided later (spring 2021). This does not provide enough certainty about how the impact of the re-alignment on the local landscape will be mitigated. We are concerned that if consent is granted without this more detailed information the scheme could fall short of what is required, and effective enforcement of this aspect of mitigation will not be possible.

Design Detail - New Public Access Routes

The proposal involves land which is to accommodate a future new public access routes delivered as direct and additional mitigation of the railway's impact on the locality. This includes a public pedestrian/cycle access route at ground level along the general route of the viaduct, and a pedestrian route around Broadwater Lake, created as additional mitigation of the railway's impact. This would be done through the HS2 Additional Mitigation Plan (Project 1: Broadwater Area). We note also that the new HS2 access route is referred to in the application as being 'informal'. Access mitigation is essential to the successful design and mitigation of the project. The Panel is of the view that the route must be formalised and access permanent.

HS2 has also agreed to a new bridge crossing for cyclist/pedestrians) being created over the River Colne within the application site. This is recognised in the application (ALIGN Ref: ALJ-TP-0031 Letter Ref: 1MC05-ALJ-TP-CRO-CS01_CL01-000026 - Consultation on indicative mitigation, (Landscape)). This needs to be planned in conjunction with appropriate mitigation to screen the increased expected footfall to the most sensitive area of the bird refuge at Broadwater Lake including for example viewing screens to protect the refuge whilst also increasing the visitor experience.

The Panel would like to see these routes committed to and protected as part of the design and mitigation measures proposed as part of this re-alignment proposal. Furthermore, there is an opportunity for the design of the re-alignment to incorporate elements (for example the foundations/abutments) of the new bridge as part of the re-alignment works to avoid additional groundworks having to be done later, which would risk additional unnecessary adverse impacts on the river and repeated disturbance of the local environment. The Panel would like consideration to be given to the inclusion of construction of appropriate bridge elements as part of a single construction process.

The Panel would be grateful if you will take these comments into consideration when you assess the application and seek the appropriate additional information/design. Please note that constituent organisations might issue separate comments which differ from the comments provided within this CVPP response.

HISTORIC ENGLAND (GLAAS)

As outlined in the Written Statement, the Colne Valley has been identified by HS2 as requiring archaeological evaluation and mitigation with investigations having been carried out over several years in accordance with HS2's Environmental Minimum Requirements and Heritage Memorandum.

The river diversion will involve ground work, but they are relatively small and localised and no specific asset has been identified in this location so there is no reason to require the schemes modification to preserve a site of archaeological interest. This response relates solely to archaeological issues.

NATURAL ENGLAND

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes. Natural England have

been in pre-app discussions with HS2 around the S28 Assent notification required for works within the SSSI. Natural England are satisfied with EA conclusions on the schedule 33 submission.

Natural England's advice on other natural environment issues is set out below.

Schedule 17 for HS2

This planning proposal is for a development scheme or works scheduled under the provisions of the High Speed Rail (London-West Midlands) Act (2017) which form part of the High Speed Two scheme within your area. It should therefore be determined using the planning regime established by that legislation. The Act grants the work deemed planning permission, subject to certain matters and details of the deemed consent being reserved for subsequent local planning authority approval under Schedule 17.

We advise that, in determining the consultation, the planning authority should have regard to the permissions already granted under The Act, and to any relevant supporting documents to The Act. Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

ENVIRONMENT AGENCY

16/2/21

The Environment Agency received a schedule 33 application for the realignment of the Colne 03/02/21 which is currently in determination following pre application advice. Any issues will be picked up through the schedule 33 process

11/3/2021

To update on this we have received a schedule 33 application that resulted in some further questions/requests for information that we have received responses to. We are reviewing these currently but we do not believe there is anything that would raise any issue with respect to the schedule 17. This therefore does not change our stance of no objection.

12/3/21

In response to your questions:

- Can you confirm that the designs as set out in the Schedule 17 will not increase the risk of flooding; that the designs will protect the water environment and there will be no adverse impacts on the aquatic environment for wildlife?

As previously stated, the Environment Agency has no objections to raise in relation to our Schedule 17 remit to the plans submitted. Just to remind you, we have no role under our Schedule 17 remit to provide comments in relation to flood risk or the water environment - these issues are all covered under Schedule 33 of the Act (see comments below).

- Can you provide a detailed update on your current position on the Schedule 33, what information is requested and why it was not sufficient?

We received a Schedule 33 application in relation to the realignment of the River Colne on the 3 February 2021, and responded on the 26 February 2021 with requests for further

information/comment. In summary these comments were to request:

- § More detailed designs of the River, specifically in relation to the proposed rip-rap
- § Some amendments to the associated WFD paperwork to make it clearer
- § The review of the final flood model has not been completed yet by our flood modellers

We believe the first two points will be addressed by HS2 fairly easily (we received comments back earlier this week and will be reviewing them shortly), and the sign-off of the flood model is currently underway. We do not expect there will be any issues that would affect the Schedule 17 application.

7/4/2021

The amendments that have been made to the original schedule 17 proposal were as a result of queries we had in relation to the schedule 33 application submitted.

As such we have no objection/concerns to this proposal and can confirm points 1 and 2 listed below against the relevant grounds for determination of a schedule 17.

(1 - Not increase the risk of flooding to people and property

And

2 - Not adversely impact the ecological value of the area.)

6.2

7.0 MAIN PLANNING ISSUES - High Speed Rail(London - West Midlands) Act

7.1 EARTHWORKS

The realignment of the River Colne is identified under the HS2 Act as Schedule 1 works, being: Work No. 2/5 - A diversion of the River Colne commencing at a point 644 metres north-west of the bridge carrying Moorfield Road over that river and terminating at a point 156 metres north of its commencement

Specifically, the River Colne requires realignment between Piers P38 and P39 of the Colne Valley Viaduct to enable the channel to pass between the two proposed piers. The delivery of the detailed scheme will be approved/consented under both Schedules 17 and 33 to the HS2 Act.

Possible grounds for refusal of approval

That the design or external appearance of the works ought to, and could reasonably, be modified

(a) to preserve the local environment or local amenity,

(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or

(c) to preserve a site of archaeological or historic interest or nature conservation value.

If the development does not form part of a scheduled work, that the development ought to, and

could reasonably, be carried out elsewhere within the development's permitted limits.

Appraisal

There are two stages to the determination of schedule 17s,
(1) is there sufficient evidence that the proposals would likely have an impact (relative to the considerations set out in the Act) and
(2) whether the proposals could and should be modified to avoid the harm.

With regards to the earthworks, the matters for consideration are
(1) the impacts on the local environment and local amenity,
(2) matters relating traffic and
(3) impacts on sites of archaeological or nature conservation value.

If it finds that there are adverse concerns, then the Council needs to be able to demonstrate that the earthworks can be reasonably modified.

Local Environment and Local Amenity:

With regard to design, officers are of the opinion that the earthworks would have a detrimental impact on the local environment and local amenity, principally through the visual intrusion. However, as set out above, these earthworks have been approved in principle in this location and are necessary to facilitate the construction of the viaduct. Consequently, earthworks will be necessary to achieve this approved part of the scheme.

The general design of the realignment is to pass the river between Piers P38 and P39. Since the original concept was first considered, the design of the Colne Valley Viaduct has created a wider space for the river to be aligned, thereby creating the opportunity to keep the river alignment as close to the original alignment as possible.

The Hybrid Bill design for the Colne Valley Viaduct envisaged piers that would be spaced at 40m intervals when measured from the centre point of each pier. This separation would have meant a pier located in the middle of the River Colne. To avoid this, works to a 170m length of the river would have been required along with a localised narrowing of the river as it passed around the piers.

During further design of the Viaduct it was found that the separation between the piers could be extended from 40m to 80m. This created a far more flexible space in which to realign the river. With the increase in pier spacing, the lateral shift of the realignment has been reduced and an access corridor can be maintained along the eastern bank. The wider viaduct pier spacing also allows channel alignment adjustments to be less pronounced than those envisaged in the ES and the extent of the works to be better suited to the proximity of the adjacent waterbodies.

The River Colne realignment will be a two-stage channel with a low flow channel and a wider channel corridor for higher flows. The low flow channel includes berms on both banks. The berms are proposed on the outside of channel bends and where the piers are to be located. The berms would be formed of coir rolls or logs held up by stakes and backfilled with natural material (e.g. woody material/earth). The berms would encourage the growth of marginal vegetation. For the wider channel, a bank slope of 1 in 3 is proposed.

There is an existing access track between the left bank of the River Colne and West Harefield Moor Lake. As Pier P38 encroaches on the existing access track, realignment of the channel is required at this location to maintain space for a new access track which will be used for channel maintenance. The realignment has been designed to minimise excavation into the right bank and maintaining a sufficient width for the access track. The minimum proposed width of the access track, at Pier P38, is approximately 8m.

Bank reinforcement is required at Pier P38 and P39 due to their proximity to the channel bank. The method of bank protection required at these locations was established by geotechnical engineers. At Pier P39, hard bank reinforcement is proposed, likely to consist of riprap overlain with topsoil to encourage growth of marginal and bank top vegetation. At Pier P38, hard bank reinforcement is proposed. This will likely be formed by making the cofferdam surrounding the pilecap of Pier P38 a permanent buried feature. This will protect the pier from any burrowing animals (such as signal crayfish) which have the potential to undermine channel banks.

Details of the planting and seeding elements do not require approval of plans and specifications under paragraphs 2 or 3 of Schedule 17. Therefore, the landscape design is provided for information purposes only. HS2 Ltd advise that the surrounding landscape scheme will be set out as part of the wider 'Ground Works North' Schedule 17 submission. The application will cover the restoration of land between the northern Viaduct embankment to the west of the A412 and Moorhall Road. The proposals will include creation of new wetland habitat set within a mosaic of woodland, scrub and grassland. Other ecological features will be embedded within the scheme and will form part of a series of connected habitats which will include the River Colne. In addition, new recreational routes will be established within the footprint of the viaduct construction works; this includes the provision of a footbridge over the river Colne.

Officers cannot see any other reasonable modifications that would reduce or remove the harm on the local environment, whilst still facilitating the delivery of the approved scheme.

Archaeology

In terms of archaeology, the Written Statement concludes that the proposed realignment works are localised in nature, with limited regrading of the existing river banks and installation of berms on edges of the existing river channel. The works will therefore have a limited impact on the buried deposit sequence identified within Zone 1 Low Lying Valley Floor and would not provide any potential contribution to the knowledge creation objectives.

the Greater London Archaeological Advisory Service (GLAAS) has confirmed that investigations have taken place, but nothing of merit has been found. GLAAS considers that the proposal will not have a significant effect on heritage assets of archaeological interest and is satisfied that the question of amending the design to preserve an archaeological site does not arise.

Ecology

In terms of nature conservation, the area to be impacted falls within the Mid Colne Valley SSSI which is of national value and the Mid Colne Valley Site of Metropolitan Importance (SMI).

The Mid Colne Valley SSSI is primarily designated for its ornithological interest including its

diversity of breeding woodland and wetland birds and for its numbers of wintering wildfowl. The SSSI includes large areas of open water, semi-natural broadleaved woodland (including ancient woodland) and an area of chalk grassland (Coppermill Down) as well as the more enclosed River Colne. All the land to the east of the A412 and north of Moorhall Road, through which the CVV passes, is part of this SSSI.

The Written Statement states that the ecological design will be fully integrated with both the landscape and engineering design of the River Colne realignment, maximising the biodiversity potential of new areas of landscape planting and new marginal habitat areas. This includes design of the berms (marginal aquatic shelves) which aim to establish high quality wetland habitat along the margins of the River Colne, benefiting a range of species, including wetland birds, aquatic and wetland invertebrates, and the protected water vole. The realigned section of river will provide as much soft bank as possible, where the more engineered hard bank revetment can be set-back from the water's edge.

The wider landscape designs include additional wetland features along the River Colne corridor and around the lake margins. These habitat mosaics are being developed to ensure new and restored habitats compliment that of the existing designated sites, including the Mid Colne Valley SSSI, which primarily consists of open water lake habitats, wetlands and semi-natural broadleaved woodland. The designs will include multi-stage profiles to create shallow bays, backwaters and aquatic berms, and will also introduce bare gravel margins with very shallow profiles.

Areas of planting or seeding carried out primarily for landscaping purposes will maximise biodiversity potential through use of species-rich and locally characteristic seed and planting mixes.

In terms of the specific construction works, a Site Specific Environmental Management Plan is in place that ensures ecological protection and mitigation. As the site is located within a SSSI, the works will also require an application to Natural England under Section 28 of the Wildlife and Countryside Act 1981. The works will not proceed until Natural England has given it assent through this application process. This will be applied for in the spring of 2021.

The Herts and Middlesex Wildlife Trust recorded water vole presence in March 2019 and again in March 2020. A conservation licence to trap and place the water voles in a captive breeding programme was approved by Natural England on the 30th October 2020 (ref: 2020-50046-SCI-SCI). Trapping was completed on the 13th November 2020. No Voles were captured.

Natural England raises no objections to the proposed works. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes.

The Environment Agency raises no objections or concerns to this proposal and can confirm that the works will not adversely impact the ecological value of the area. and will preserve the nature conservation value.

To summarise, the Environment Agency is a statutory consultee on matters related to ecological impact of the aquatic environment and the role the River Colne plays in supporting the wider ecological value of the area. The Council also considers that the Environment Agency has a key role to play in securing protection of the Local Environment; in this context, that means ensuring the diversion of the River Colne does not result in an increase in risk of flooding to people and property.

The Environment Agency's initial response was not satisfactory in resolving these issues. Their approach was to leave these matters to the Schedule 33 submission which has separate objectives to Schedule 17. The Environment Agency's early response indicated they have no issues with the designs but subsequently raised issues directly with HS2 Ltd through the S33 discussions that contradicted their stance on Schedule 17, i.e. changes were necessary.

Details of these changes emerged in March along with specific clarification from the Environment Agency that the designs set out in the Schedule 17 would not result in adverse ecological impacts or an increase risk of flooding to people and property. As the lead regulator for rivers, in regards to aquatic habitat and flood risk management, this position, together with the work on the Schedule 33 and changes to the design in March satisfies officers that the scheme is acceptable."

Flood and Water Management

A hydraulic model has been developed to assess the impacts of the Colne Valley Viaduct, including the River Colne realignment, on the River Colne and associated floodplain. The report summarising the model forms part of the Schedule 33 submission for approval by the EA, but has also been provided with this Schedule 17 submission for information purposes.

The River Colne hydraulic model results including the proposed permanent works and the realignment identified negligible changes in flood water levels across the Colne Valley (less than +/- 10mm) for all return periods. The specific model scenario for the River Colne realignment found that flood levels upstream are slightly reduced which suggests an increase in conveyance through the realigned section. There are also minor increases (less than 5mm) in flood levels immediately downstream of the realigned section at low return periods but no increase in the peak flows. Flow rates measured downstream of the realignment indicated no increase in peak flows for any return period due to the realignment.

The flood modelling including the permanent works and the realignment shows no significant impacts on the risk of flooding from the River Colne.

Impact on the Highway Network

The site is not directly accessible from any public highway but can be accessed either from Moorhall Road 640m to the south via a track along the eastern bank of the River Colne or from the east via a track from the towing path along the Grand Union Canal. It is not therefore considered that the works will have any detrimental impact on road safety or the free flow of traffic in the local area.

CONCLUSION

In conclusion, it is not considered that the works ought to or could reasonably be located elsewhere within the development's permitted limits. Officers cannot see any other reasonable modifications that would reduce or remove the harm on the local environment, whilst still facilitating the delivery of the approved scheme. There is no reason to require the schemes modification to preserve a site of archaeological interest, whilst it is not considered that the works will have any detrimental impact on road safety or the free flow of traffic in the local area. In terms of ecological impacts it is considered that the works will preserve the nature conservation value of the area and not adversely

impact the ecological value of the locality. It is therefore considered that the submission accords with the grounds for determination set out in Schedule 17, Paragraph 3 to the HS2 Act.

8.0 BOROUGH SOLICITOR COMMENTS

The High Speed Rail Act 2017 received Royal Assent on 23 February 2017. Section 20 of the Act provides that planning permission is deemed to be granted under Part 3 of the Town and Country Planning Act 1990 for development authorised by the Act, subject to the other provisions of the Act and the conditions set out in Schedule 17. It is a condition of the deemed planning permission that the development must be begun no later than the end of 10 years beginning with the date on which the Act is passed.

The planning permission conferred by the Act is analogous to an outline planning permission, which settles the principle of the overall development of Phase One of the HS2 scheme, whilst leaving certain details to be approved at a later stage.

The Council elected to become a qualifying authority which gives it responsibility for approving a wider range of Schedule 17 applications than a non-qualifying authority and also, the grounds upon which it can refuse consent are wider.

This application falls to be considered by the Sub-Committee under paragraph 3 of Schedule 17 of the HS2 Act which relates to a request from HS2 Ltd for approval of plans and specifications concerning realignment of the River Colne between Piers P38 & P39 of the Colne Valley Viaduct to enable the channel to pass between the two proposed piers. Specifically, approval is being sought for plans and sections of the earthworks, showing the details and levels of the proposals.

This is a straightforward application. However, there are two important legal issues which Members of the Sub-Committee are required to consider in turn in determining it.

Firstly, Members need to be satisfied that they have sufficient information from HS2 Ltd in order to make a lawful decision. This public law principle was unequivocally laid down by the Court of Appeal in its July 2020 ruling which gave general guidance as to the correct interpretation and meaning of Schedule 17 and applications made pursuant to it. This ruling has not been subject to further appeal and therefore it is now established law. The judgment made it clear that a qualifying authority is under no legal obligation to determine a Schedule 17 application submitted by HS2 Ltd unless and until it has provided sufficient information in support of it and that qualifying authorities and HS2 Ltd should work collaboratively to achieve this.

It is the view of officers that HS2 Ltd has provided sufficient information in support of this particular application.

Secondly, the Sub-Committee is only empowered to refuse the application, or impose a condition on approval of it, on one or more of the specific statutory grounds set out in Schedule 17. Members will now be familiar with these grounds but it is, for the avoidance of doubt, worth repeating them as follows:

That the design or external appearance of the works ought to, and could reasonably be modified-

to preserve the local environment or local amenity,

to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,
or

to preserve a site of archaeological or historic interest or nature conservation value.

If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

Members will note that it is made clear in the body of the report that none of these statutory grounds are engaged in this case and therefore, Members can lawfully approve the application. With regard to the possible imposition of conditions the same principle of the statutory grounds not being applicable comes into play and it follows that there is no legal basis for any such conditions to be attached to the approval. An informative is being recommended but this has a different and lower legal status to that of a condition.

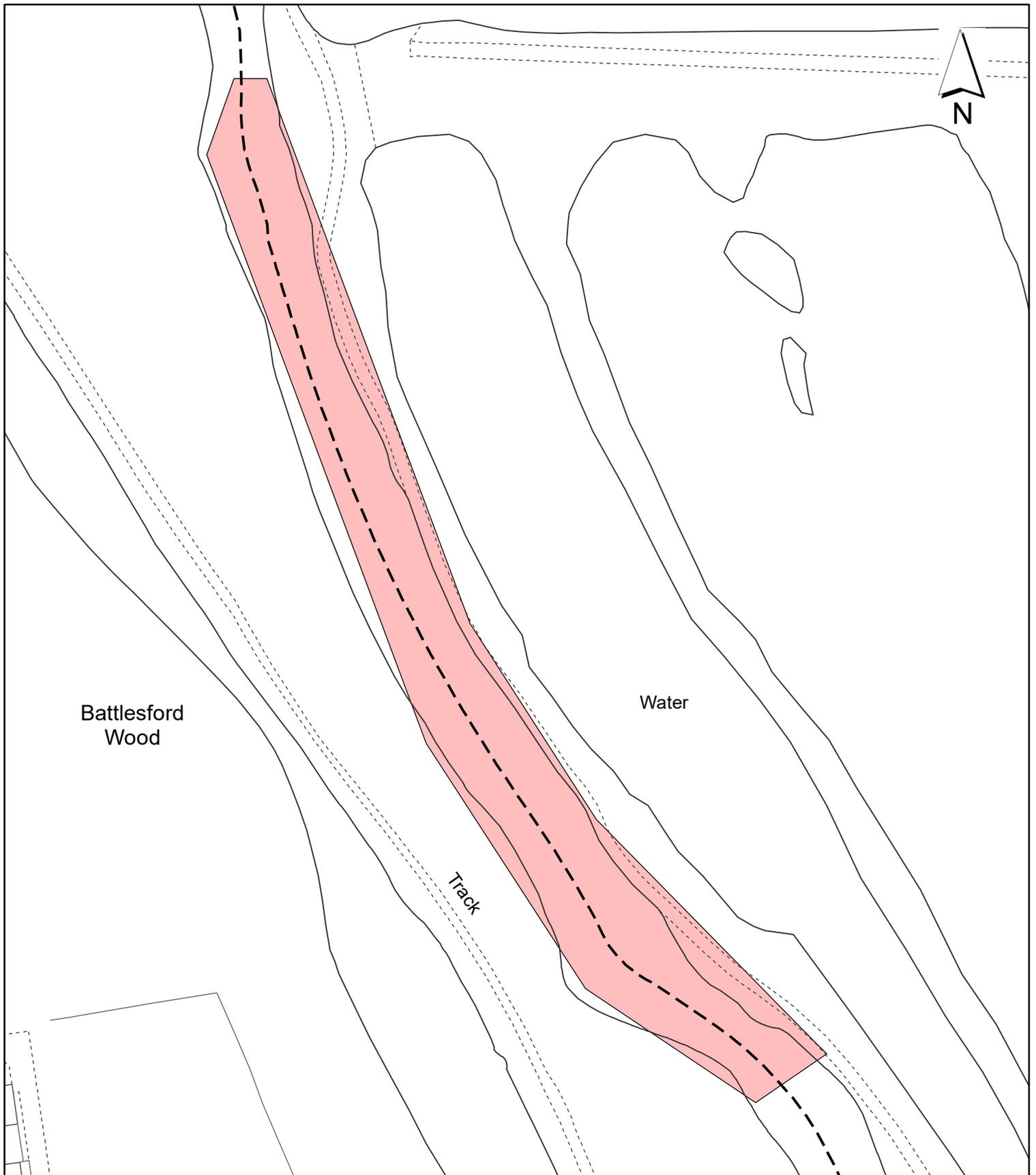
9.0 OTHER ISSUES

None,

10.0 REFERENCE DOCUMENTS

The High Speed Rail (London-West Midlands) Act 2017.

Contact Officer: Karl Dafe **Telephone No:** 01895 250230



Notes:

 Site boundary

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Site Address:

**River Colne, River Alignment
 Moorhall Road**

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section

Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:

76182/APP/2021/399

Scale:

1:1,250

Planning Committee:

HS2

Date:

May 2021



HILLINGDON
 LONDON