

Addendum for Planning & Regulation Committee 27th September 2023

Report by the Director of Planning, Environment and Climate Change (Agenda Item 4 (Didcot Garden Town HIF 1 Scheme))

Further Responses Received

Since the committee report was published, 11 further representations have been received:

- 6 in objection
- 1 withdrawing their objection
- 4 in support

The issues raised are discussed as follows:

Representations raising objections

The Neighbouring Parish Councils Joint Committee (NPC-JC) sent a letter to the Leader of the Council dated 20th September 2023 raising the following:

- The NPC-JC recognise the need for infrastructure to support housing development and to support the Development Plans of the District Councils albeit agree with the resolution of Planning & Regulation Committee to refuse the HIF1 application at the 17 / 18 July meeting;
- The amended motion by Council on 12 September 2023 simply noted Cabinet's (prior) approval of the HIF1 proposal and in no way authorises the Council, Cabinet or Officers to ignore the lawful decision by Planning & Regulation Committee on 18 July 2023.
- Querying the legality of the call in procedure given the resolution made by Planning & Regulation Committee on 18 July 2023.
- Querying the purpose of the Planning & Regulation Committee scheduled for 27 September 2023 when it is clear that the jurisdiction for making the decision now lies with the Secretary of State.
- OCC can now reasonably only take one position at the Inquiry and that should be to pursue the refusal of the scheme in accordance with the resolution made on 18 July 2023.
- Urge OCC to withdraw the HIF1 planning application to avoid a costly and contentious Inquiry
- HIF1 is a legacy scheme designed by a previous administration in a different transport policy context. The impact on the Council's climate reduction targets and sustainability goals by building a major arterial road cannot be overstated.

Mr Charlie Hopkins on behalf of the NPC-JC wrote to the Leader of the Council and the Chief Executive on 21 September 2023 raising the following:

- Concern with the letter sent from the Director for Planning, Environment and Climate Change to the Director for Transport and Infrastructure dated 14 September 2023 inviting a response from the applicant as to how the

proposed reasons for refusal might be responded to. There is no legal basis for this and seeks clarification on what basis this invitation was made.

- Concerned with the composition of the Planning & Regulation Committee on 27 September 2023, which might be made up with different members than those who sat on 17 and 18 July 2023.
- Question the legality of the call in with no requirement to publish a decision notice within the planning Acts in order for a decision made by a planning committee to take effect.
- Comments were made to disagree with applicant's response to the 8 reasons for refusal and to highlight that in each case the Planning & Regulation Committee made a planning judgment in each case on 18 July 2023, which they were entitled to do and should be maintain that position at the Inquiry.
- The applicant should withdraw the application to avoid the Council being open to legal challenge and further costs and delays.

Mr Chris Church on behalf of Oxford Friends of the Earth wrote to the Leader of the Council and the Chief Executive raising the following:

- Question why the Council consider that no decision has been taken on the HIF1 planning application given that that the Planning & Regulation Committee resolved to refuse the application at the 18 July meeting.
- Given that the application has been called in, please explain what the jurisdiction of the Planning & Regulation Committee will be at the 27 September 2023 meeting. Please also confirm that there will be no attempt to amend or clarify the reasons listed from the 18 July meeting.
- Why is OCC funding legal advice to support two contradictory legal positions between the applicant and local planning authority.
- Please clarify which position Cabinet and Officers are supporting.
- Question regarding what alternatives were previously discussed that resulted in there being a view that there is no alternative to the scheme subject of the current application.
- Question the basis of the letter from the Director for Planning, Environment and Climate Change to the Director for Transport and Infrastructure as applicant regarding seeking a response to the reasons for refusal.
- Information requested on the latest position with regard to funding of the scheme.
- Confirm that Cabinet and Officers are satisfied with the carbon unit reconciliation and that supporting the HIF1 scheme will achieve net-zero objectives without the need for offset and will not in any way damage the climate.

Mr R Leonard sent an email to Members of the Committee and others arguing that the Secretary of State was too late in trying to call in the decision of the Committee; that the decision was made by the Committee in July and that the response to the Secretary of State should be to uphold the decision of 18th July.

Other Representations in Objection

We have received 2 further letters of objection from members of the public which have not raised any new issues that are not already addressed in the Committee reports for 17 / 18 July 2023 and 27 September 2023.

Officer response

The representations received from the NPC-JC and their adviser, Friends of the Earth and one member of the public cover similar issues around process and seeking clarity as to the purpose of the 27 September 2023 Planning & Regulation Committee. In terms of process, legal advice is that the Secretary of State's call in Direction is valid unless and until there is a successful challenge to it and the Council must comply with it. The Secretary of State has directed that "the application shall be referred to him instead of being dealt with by the Local Planning Authority". "Dealt with" clearly includes giving notice of refusal. Under the Direction, the Local Planning Authority cannot therefore give notice of refusal.

In this context, the Secretary of State has written to the Council as both applicant and local planning authority and invited each component part to submit a statement of case in respect of 4 key questions which are documented in the published committee report for the 27 September 2023 meeting. As a result, the purpose of the 27 September 2023 meeting is for the Planning & Regulation Committee to confirm how it wishes to respond to the Secretary of State's 4 questions in its statement of case.

As part of this process, the Director for Planning, Environment and Climate Change sought clarity from the applicant as to how they might want to respond to the 8 reasons for refusal identified on 18 July 2023. This was an opportunity for the applicant to set out their consideration of the 8 reasons for refusal, which could then be reported back to Planning & Regulation Committee. The response from the Director for Transport and Infrastructure as set out in Annex 5 of the committee report explains the applicant's current position and proposes new conditions that in the view of officers would result in an enhanced proposal. The committee report for the 27 September 2023 meeting provides the officer view that this should be taken into account in the local planning authority's statement of case. It will be up to the Planning & Regulation Committee to decide what it wants to include in its statement of case to the inquiry based on the information before them at the meeting. The report is clear that various options are available to the committee in light of this additional information, including not pursuing the 8 reasons for refusal further and adopting a neutral position, pursuing some or all of them at the Inquiry.

The purpose of the 27 September 2023 Committee is therefore to obtain a decision on the local planning authority's position to enable the statement of case to be submitted by the 4 October 2023 deadline. As this is not a continuation of the 17 / 18 Planning & Regulation Committee, a new decision needs to be made; namely what to include in the local planning authority's statement of case to the Inquiry. Consequently, all appointed members of the Planning & Regulation committee have been invited in the normal way and can and need to consider the report and information before them.

Withdrawal of Objection - Response by Walker Morris on behalf of FCC Environment (UK) Limited

The agent of FCC, owner of the old landfill at Sutton Courtney and other land interests that form part of the land required for the scheme subject to the application have written in to re-iterate that their support in principle subject to conditions as reported at the July Committee meeting.

Officer Response

The withdrawal of the objection by FCC is welcomed. Officers can confirm that FCC's views on conditions will be presented to the Inquiry along with all representations for the Secretary of State to consider in their decision.

Representations in Support

Didcot Parish Council have written to the Council to emphasise its supports for the HIF1 scheme. The Parish Council highlight that many of the new developments within the parish will rely heavily on the HIF1 scheme as otherwise the additional traffic that will be generated will overwhelm Didcot. It is therefore necessary to relieve congestion and support development in the area.

Long Wittenham Parish Council have written in to support the HIF1 scheme highlighting the benefits that it would bring such as addressing traffic congestion, improving bus journey times, new cycle links. The Parish Council have supported the HIF1 scheme since its inception in view of the benefits that would be realised in terms of addressing traffic congestion.

Berinsfield Parish Council advise that they have been supportive of the scheme and have written to the Planning Inspector to this effect.

Oxford Bus have written in to set out their unequivocal support for the HIF1 scheme as it is crucial to the effective delivery of existing and future bus services for the Science Vale area. Oxford Bus have also written in formal support to the Planning Inspectorate setting out in detail why they consider the proposals should be granted planning permission given its crucial role in reducing car dependency and promoting bus patronage to serve the planned development.

The Oxfordshire Local Enterprise Partnership have written in support of the scheme in view of its critical role in delivery of homes and jobs in the Didcot Garden Town area, Harwell Science and Innovation Campus, Culham Science Centre and Milton Park.

Updates to the Committee Report

Members are advised that there are a number of incorrect references in the report to the specific paragraph where the matters that the Secretary of State wants to focus on at the Inquiry are set out. For the avoidance of doubt, the Secretary of State's four areas that they want to focus on at the Inquiry are set out in Paragraph 13 of the report. There are references in the report to this being in Paragraph 4 contained at

Paragraphs 15, 17, 45 and 59, which are incorrect. These references are replaced in this addenda report with 'Paragraph 13'.