

Addendum 2 for Planning & Regulation Committee 15th July 2024

Report by the Head of Strategic Planning (Agenda Item 7 (North of the A420 Botley Road to south of the A423 ring road, running predominantly between the A34 to the west & the Oxford to London railway line to the east, including land between the A4144 Abingdon Road to the west & River Thames))

In the addendum provided to the members of the Planning and Regulation committee on Friday 12th July, officers attached as Annex 2 a further representation from the Oxford Flood Environment Group (OFEG). The Environment Agency as applicant has responded to that representation and this response is set out below:

Environment Agency (applicant) response to OFEG representation

Thank you for the opportunity to respond to this letter sent by OFEG dated 4 July 2024.

The letter raises issues that were discussed, considered and tested in detail during the Public Inquiry into the Compulsory Purchase Order (CPO). The CPO was made by the Environment Agency (EA) to acquire the land, and rights over land, for the purposes of constructing and operating the scheme. The Public Inquiry for the CPO was held between November 2023 and January 2024 and the issues raised in the letter were considered by an independent planning inspector who will make a recommendation to the Secretary of State on whether the CPO should be confirmed. The EA is currently awaiting the Secretary of State's decision on whether the CPO is confirmed and all of the relevant matters to that process are being considered by the Secretary of State. As you will be aware, the CPO process is a separate regime to the planning application with its own processes and considerations. Not all content from the CPO Public Inquiry is material to this planning application determination. You have clearly set this out in paragraph 4 of your committee report. In addition, you have addressed in paragraph 145 of your report the issue of value for money and reminded the Committee that this is not an issue to be considered as part of the planning application determination.

It is also worth noting that Section 19 of the Acquisition of Land Act 1981 relates to the CPO and was dealt with in detail at the Public Inquiry and will be determined by the Secretary of State.

Failing to consider alternatives

In terms of the consideration of alternatives we have complied with Environmental Impact Assessment regulations set out in Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Environment Agency only considers options which are technically feasible. We do not spend time and resources on options which are not technically feasible and we do not pursue options that are contrary to our position as an organisation. Our Environmental Statement details how alternative options have been considered including Appendix Q which addresses the problems with some of the alternatives put forward by other parties. We also note that you have taken this into account in paragraph 144 of your

committee report which is clear that the scheme which forms part of the application should be considered on its own merits and the availability of potential alternatives is not normally in itself a reason to refuse an application.

Hinksey Meadow

Regarding the letter's claim under point B-1 that the EA has failed to recognise the importance of the Hinksey Meadow. In line with the EA's own statutory duties and the National Planning Policy Framework (NPPF), we have followed the mitigation hierarchy when designing the Scheme and the full details of this are set out in the ES, which was submitted as part of the planning application.

If there was a technically feasible scheme which avoided any impacts on the MG4 grassland in Hinksey Meadow then that is the scheme that would have been submitted for planning approval.

The alternative channel alignments, widths and route modifications that were considered during the development of the Scheme are set out in the Technical Memorandum on Alternative Options and in ES Section 2.3.3. On Page 21 of the ES, we explain how the design at Hinksey Meadow was amended to avoid and minimise impacts. Appendix D-23 of the ES is an MG4 Mitigation Strategy that is based on independent expert advice from the Floodplain Meadows Partnership of the Open University.

We have given full and detailed consideration to the likely impacts on Hinksey Meadow, and the design of the Scheme and mitigation proposals reflect the imperative need to fully account for these.

It is also stated in point B-2 of their letter that the EA has not properly considered the indirect impacts on matters such as groundwater. The proposed mitigation for the potential lowering of groundwater levels is set out in Appendix D-23 MG4 Mitigation Strategy and involves the construction of fixed-crest riffles downstream of the meadow. A programme of groundwater monitoring, botanical surveys and invertebrate surveys is set out in the ES so that the success of the mitigation can be assessed. The height of the riffles can be adjusted or additional riffles can easily be incorporated into the scheme at a later date, should this be required. However, modelling suggests that the proposed mitigation will maintain groundwater levels at or above existing levels in Hinksey Meadow.

Point B-3 suggests that translocation of MG4a turf is the only mitigation being proposed by the EA but this is not the case. The Floodplain Meadows Partnership, acknowledged national experts in MG4 grassland, have provided the Environment Agency with expert advice on the likely impacts of the scheme at Hinksey Meadow and on the options for mitigation. As set out in ES Appendix D-23, there is a four-pronged approach to mitigation:

- a. Minimising the area of MG4 to be dug up, through designing the second stage channel to be in areas of lower habitat value where possible;
- b. Enhancing over 16ha of existing floodplain meadow, outside of the two-stage channel, with a suitable mix of grasses and wildflowers to create/restore MG4

grassland, and long-term management of these areas as lowland meadow. The seed for this is to be taken from Hinksey Meadow if possible, or from other MG4 grassland otherwise;

c. Managing water levels in local streams, Seacourt Stream and Bulstake Stream, so as to maintain these levels under both low flow and average year conditions and hence maintaining corresponding groundwater levels in Hinksey Meadow at or above existing levels. This will be achieved by installing a series of fixed-crest nature-like riffles in the Bulstake Stream which will mimic natural bed features. This is set out in the modelling report submitted with the planning application;

d. Translocation of the turf from the area of MG4 grassland at Hinksey Meadow which needs to be removed, to a suitable receptor site where it can be managed as lowland meadow.

The Mitigation Strategy explains that:

‘There is consensus among ecologists who have looked at the proposals, that there is a high chance the translocation proposal will not succeed. Therefore, the mitigation plan is based primarily on the other three approaches, which are designed to be adequate mitigation even if none of the translocated turf survives as MG4.’

The translocation element of the mitigation is an endeavour to try to make the most of the valuable species-rich turf that will have to be removed as part of the Scheme. It does not constitute an essential element for compensating for the impact of the Scheme, due to the uncertainty around success, but we argue it is a measure worth undertaking as the alternative of just destroying the valuable turf would be difficult to defend.

Paragraph 352 of the committee report confirms that OCC’s ecology specialist is satisfied that the mitigation and compensation measures incorporated into the Scheme are adequate and paragraph 356 confirms that subject to appropriate controls being in place, the Scheme is consistent with relevant policy provisions relating to loss of irreplaceable habitat.

Biodiversity Net Gain (BNG)

The Environment Agency are also committed to delivering Biodiversity Net Gain in relation to the Scheme. Accurate and up to date information relating to the biodiversity net gain that the scheme will deliver is set out in the Committee Report Paragraphs 339-345. A minimum of 10% BNG will be provided through additional off-site provisions. This will be secured through a section 106 agreement and any planning permission will not be granted until such an agreement is entered into. This point has been considered in the committee report. (Paras 339 – 345).

Loss of Trees

Under point B-6 of the letter, OFEG only address the trees and hedgerow we need to remove from the Scheme area and neglect to touch on the robust landscape strategy we’ve put in place. A detailed tree planting proposals were submitted as part of the Regulation 25 additional environmental information and will result in 4.87ha more woodland within the scheme area than there is at present. Around 2,000 trees will be

lost but around 19,100 trees will be planted including 4,100 larger-growing tree species (such as willow, poplar, alder and oak) and 15,000 smaller-growing tree species (such as hawthorn, hazel and elder). Thousands of native shrubs such as dogwood and dog rose will also be planted. 3.59km of new hedgerow will be planted in the Scheme area to help mitigate for the loss of 3.81km of hedgerow.

The committee report also confirms that the proposals are in accordance with relevant policies subject to appropriate conditions being in place (see paragraph 370).

Landscape establishment

Point B-7 suggests that the EA do not have the capability of undertaking construction and landscape works without causing increased flood risk or poor-quality establishment. Our contractors, independent of the EA, are required to obtain a Flood Risk Activity Permit to ensure their working methodology does not increase flood risk during construction, which includes landscaping. With regards to the sequencing of our landscape establishment, a Landscape and Habitat Creation: Delivery and Management Plan (LHCDMP), was submitted as ES Appendix V with the Regulation 25 additional environmental information. This document sets out how seeding and planting will follow on immediately after topsoil spreading in the lowered floodplain, to reduce the risk of weeds gaining a foothold or of a flood event washing away the soil prior to establishment of the sward. If there is an unavoidable delay between cultivation and seeding due to adverse weather conditions, any weeds that grow on the seedbed will be hand-pulled or spot-sprayed with herbicide before they can flower and set seed.

We hope this response will aid the committee's understanding and allow the committee on the 15th July 2024 to focus on material planning matters. The Scheme detailed in the planning application under consideration is the only Scheme the Environment Agency is proposing and it will provide better levels of protection from flooding that all parties can agree Oxford desperately needs.