

CABINET - 16 DECEMBER 2014

FOLLOW-UP TO CALL IN OF THE CABINET MEMBER FOR ENVIRONMENT'S DECISION RE: PROPOSED PELICAN CROSSINGS – A415 MARCHAM ROAD AND OCK STREET ABINGDON RE-CONSULTATION

Report by Deputy Director of Environment & Economy (Commercial)

Introduction

1. At their meeting on 3 November 2014 the Performance Scrutiny Committee considered the decision of the Cabinet Member of Environment made on 9 October 2014 following proper notice of call in. The Committee agreed to refer the decision back to Cabinet for it to consider in the light of the following aspects of the decision:
 - (a) That neither the Officers report nor the Cabinet Members decision appeared to be based on the Department for Transport Guidance into the assessment of pedestrian crossing sites and;
 - (b) The Cabinet Member did not take due account of the impact of the changes on the wider local traffic network.
2. At their meeting on 25 November Cabinet agreed to defer consideration of the matter to its next meeting to allow papers to be produced in accordance with the Councils publishing time lines.

Background

3. The background and technical detail for the consideration of the two new Pelican crossings are included in the paper and Annexes considered by the Cabinet Member for Environment at his Delegated Decision meeting on 9 October 2014. These papers are included at Annex 1 to this report.
4. The Cabinet Member for Environments Decision regarding this matter is included at Annex 2 to this report.
5. Cabinet Members are asked to consider all the previous papers as well as the specific additional points in detail in this report in making their decision.

Department for Transport Guidance

6. Local Transport Note 1/95 (LTN 1/95): The Assessment of Pedestrian Crossings (see Annex 3 to this report) provides guidance to highway authorities on the provision of 'stand-alone' crossings (i.e. those not provided

as part of a traffic signalled junction), and specifically presents a framework which encourages informed decisions to be made as to whether a crossing is necessary, and if so, which type should be used.

7. The guidance is primarily intended for situations where there are no existing pedestrian crossings, but it can nevertheless also be applied to assessing proposals to amend existing provision.
8. The detailed guidance comprises the following sections:
 - a) **Site assessment** (sections 3.1 to 3.7) – this part of the guidance focusses on assessing the need for a crossing, taking account of the following factors:
 - Carriageway and footway type and width
 - Surroundings, vehicular and pedestrian flow and composition
 - Average crossing time and difficulty of crossing
 - Road accidents
 - b) **Option Assessment – Quantification of factors** (section 4.1 - paragraphs 4.1.1 to 4.1.5) – using the information derived from the above site assessment, the framework commends detailed consideration of the following factors:
 - Difficulty in crossing road, focussing on the times of day when this is highest, taking account of both the level of traffic and pedestrian factors such as their age and mobility.
 - Vehicle delay at the crossing, taking account of the traffic flows and pedestrian demand
 - Carriageway capacity, taking account of the wider impact of a crossing on the local road network.
 - Representations relating to the request for a crossing (and implicitly, also the responses received in the course of consultations on any specific proposal).
 - Costs of providing the crossing, including ancillary works such as providing or improving street lighting etc.
 - c) **Option Assessment – Crossing options** (section 4.2 – paragraphs 4.2.1 - 4.2.4) provides guidance on the following options:
 - Do nothing - where the benefits of providing a crossing are outweighed by the costs and other considerations (this will typically apply at sites where pedestrians can already safely cross without undue delay).
 - Traffic management / traffic calming – including measures such as providing a pedestrian refuge, traffic calming measures or narrowing the carriageway.
 - Provide a Zebra crossing
 - Provide a signal controlled crossing

Application of LTN 1/95 to the assessment of proposals for A415 Marcham Road and Ock Street.

9. Comments on officers consideration of the proposals are set out below for the above factors, including as appropriate the relevant paragraph(s) in the officers report submitted to the Cabinet Member for Environment Delegated Decision meeting on 9 October 2014

Carriageway and footway type and width

Annex 1 to the report included a plan showing the road layout including the carriageways and footways, and later annexes provided the detailed safety audit reports carried out by both Glanville Consultants and Head Mann Associates including further detailed plans and references to the highway infrastructure.

Surroundings, vehicular and pedestrian flow and composition

These factors were described in the annexes to the report including the above safety audit reports.

Average crossing time and difficulty of crossing

An assessment of the likely crossing time and convenience of using the proposed arrangements was provided in paragraphs 16 to 21.

Road Accidents

Information on the road accident history was provided in paragraph 24

Difficulty in crossing road

Consideration by officers of the existing traffic flows, pedestrian demand and general character of the site confirmed that it was desirable that any crossing point across the A415 in the vicinity of the junction of the A415 should be either a zebra or signal controlled crossing. Officers therefore were satisfied that the specific proposals for signalled crossings correctly reflected the difficulty in crossing the road without such provision, and this issue was not therefore explicitly referred to in their report.

Vehicle delay at the crossing and Carriageway capacity

These matters were the subject of detailed scrutiny at the public inquiry on the development, at which the County Council made representations on its traffic impact, including the current crossing proposals, and were discussed in paragraphs 26 to 31 of the above officer report.

Representations

The consultation responses on the proposals included a large number of concerns on the grounds that the revised pedestrian provision would be strongly detrimental to road safety and exacerbate traffic delays and congestion. The safety concerns were considered in detail in paragraphs 15 to 25 of the officer report, including the specific concern that students walking to/from Larkmead School from addresses on the west side of the Drayton Road would choose not to use the alternative proposed provision (discussed in paragraph 20). As referred to above, the issues of congestion and delay were discussed in paragraphs 26 to 31.

Costs

If approved, the costs of providing the crossing would be met by the developers as detailed in paragraph 37 of the officer report.

10. The LTN 1/95 advice on crossing options primarily relates to sites where there is no existing provision. As discussed in para 8 'Difficulty in crossing road' above, as the proposals are for the provision of signal controlled crossings, there is no dispute of this either on the part of officers, or those responding to the consultation. However, it is recognised that many of the respondents to the latter expressed a strong preference for the 'do nothing' option in the context of the existing pelican crossing being retained in its current location. Officers in principle would similarly have no objection to this in the absence of the development and its associated planning conditions.

Traffic Congestion and Delays

11. The county council objected to the application and the outstanding issues heard at the appeal were:
 - The scale of the impact of the proposed development will have on an already congested highway network.
 - The quality and accuracy of the traffic data the appellant used in their transport models.
 - The reliability of the VISSIM model outputs as an accurate and true representation of the Transport network and the impact that the proposed development will have.
 - Whether the proposed mitigation measures are acceptable and will deliver the improvements portrayed.
12. The work completed for the application and subsequent appeal, in respect of the impact of the pedestrian crossings, is significantly greater than the county council normally undertakes when considering implementation of such a facility.
13. Normal practice is to implement crossings without any form of modelling being undertaken, with optimum timings to best balance traffic and pedestrian needs being completed on site following installation.

14. (For the Inquiry) a VISSIM model was used to assess the impact of the proposed schemes on the Drayton Road double mini roundabouts and approaches. This is a micro-simulation model which can robustly model congested networks and pedestrian facilities. The Model area was from Caldecott Road to Buckles Close north/south and from Conduit Road to Collwell Drive east/west. Officers of the county council regard the extent of the model and the modelling tool used (VISSIM) as appropriate.
15. The transport network in Abingdon itself is congested with relatively long journey times through the town. Officers consider that the impact of the proposed changes to the pelican crossings will be localised when considered with delays across the wider network. When the inspector considered the wider impact with regard to the impact on air quality in para 54 of the Appeal Decision report he stated:

“There were unsubstantiated suggestions that the alterations might interact adversely with the air quality management area in Abingdon, or with an extension to that Area that has been suggested to the District Council; but the changes in traffic volumes resulting from the development would be small and congestion would be likely to fall during the morning peak and remain substantially unchanged in the evening peak; which points away from harm to air quality.”
16. Extensive traffic and pedestrian surveys by the applicant were completed to inform the model and also by the county council to assist with demonstrating its concerns.
17. The county councils survey results were used at the Inquiry. Information and data used at the appeal, which contained and referenced these traffic and pedestrian surveys, can be found in with these documents (note this is not an Exhaustive list), copies of these documents will be deposited for reference in the Members Resource Centre:
 - The “Proof of Evidence” by Roy Newton (OCC)
 - The “Proof of Evidence” by Jennifer Baker (SKM)
 - The various “Abingdon VISSIM technical notes” produced by SKM and Halcrow
18. The impact of the development on the transport network for both vehicles and pedestrians was considered in depth by planning inspector appointed to deal with the Appeal (covered in paragraphs 36 - 54 of the Appeal Decision report (Annex 4), who thoroughly considered the evidence submitted and representations made. It is important to note his comments on the modelling and concluding remarks within para 52 and 54 of the appeal decision report:

“I am therefore satisfied that the Appellant’s modelling gives adequately reliable predictions of the effects that the various options, with the stated pedestrian crossing assumptions, would be likely to have on traffic conditions at the Drayton Road/Marcham Road junction with the development in place”.

"I conclude that Option 3 [the scheme being considered today] should be provided, as necessary mitigation of the transport effects of the scheme. Alone of the options it would provide relief to the Drayton Road entry to the junction whether pedestrians choose to cross the A415 on Ock Street or on Marcham Road. Option 3 would make proper provision for pedestrians and reliably accommodate the development traffic while avoiding a severe transport impact. That would be compliant with Framework paragraph 32 bullet 3.

19. While Oxfordshire County Council presented evidence against the developer's traffic impact assessment at the appeal, no additional new technical evidence has been submitted since the appeal, including in the objections and concerns received in the course of the consultation..

Legal Consideration

20. The legislative tests for the Cabinet to apply when deciding whether to approve proposals for the provision of a new pedestrian crossing on Ock Street and the relocation of the existing pedestrian crossing in Marcham Road are set out in paragraph 12 of the report to the Cabinet Member meeting on 9 October. They are contained in section 122 of the Road Traffic Regulation Act 1984.
21. The legal requirement for all Council decision making is to take into account all relevant considerations and to ignore all considerations which are not material. Following a call-in, the Performance Scrutiny Committee has asked for specific consideration to be given to Department for Transport guidance into the assessment of pedestrian crossing sites. That guidance is clearly a relevant consideration.
22. The second recommendation of the Performance Scrutiny Committee is that due account was not and needs to be taken into account of the impact of the changes on the wider traffic network. This is a reference to the conclusions of the planning inspector on traffic concerns and objections raised during the planning inquiry considering the proposed development off Drayton Road.
23. The first question that needs to be addressed is: did the inspector consider the impact of the crossing proposals on the traffic network beyond Drayton Road itself? If he did, what evidence did he consider and what conclusions did he reach? In particular, what conclusions did he reach about the impact on traffic in Ock Street and Marcham Road coming into and out of the town centre.
24. The Planning Inspector's conclusions on the traffic implications of the proposed crossings are a compelling consideration, for two reasons: firstly because of his expertise and role as an independent planning inspector used to assessing technical evidence and secondly because he was presented with a large amount of evidence on the subject, tested in cross examination. His conclusions could only be put aside if (a) it was clear that he had not received evidence or had not reached a conclusion on the impact of the crossings on

traffic in any streets that might be significantly affected or (b) there was a significant and manifest flaw in his reasoning or (c) there had been a change of circumstances following his decision such as compelling new technical evidence.

25. The applicant that has submitted the crossing proposals to the Council for consideration challenged the first decision of the Cabinet Member on 27 March 2014 by judicial review. The Council conceded, on Counsel's advice, that the reasons for the decision were insufficiently expressed. The Council will be susceptible to further litigation if it departs from the conclusions of the planning inspector without strong reasons. The legal costs payable for a successful challenge could be £20,000 to £30,000 if it is resolved without a hearing and substantially more if there is a hearing.

Conclusion

26. Substantial weight must be given to the inspector's conclusions when reaching the decision in respect of the Road Traffic Regulations Act 1984.
27. This means that unless material new evidence comes to light, or that it is demonstrated that there was a substantial flaw with his decision, we are effectively bound by his decision - in so much as that we are likely to be successfully challenged if a decision was made to depart from it
28. With regard to the second point, a substantial flaw, the county council (and the Vale of White Horse) took counsel advice at the time to consider if there were grounds for challenging the inspector's decision. It was concluded by both parties independently that it was not.
29. That leaves consideration regarding new evidence. As the county council put significant effort into challenging the application and development at the appeal hearing, including undertaking its own traffic surveys and utilisation of its own traffic data, officers have no further avenues to explore with regard to the impact of the scheme for traffic and pedestrians.
30. The county council has no new technical evidence or lines of enquiry, nor was there any materially new information/evidence raised through the consultation. In view of this, officers concluded that there are no valid reasons for reconsidering the inspector's decision in this regard.

Exempt Information

31. There is no exempt information

Financial and Staff Implications

32. As identified in 9. above, the scheme, if approved, would be funded by the developer

RECOMMENDATION

33. **Cabinet is RECOMMENDED to:**

- (a) approve implementation of proposals for two proposed Pelican crossings on A415 Marcham Road and Ock Street, Abingdon as advertised and
- (b) (if approved) monitor closely the safety performance and traffic delays following the completion of the works.

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Background papers (available in the Members Resource Centre):

- The “Proof of Evidence” by Roy Newton (OCC)
- The “Proof of Evidence” by Jennifer Baker (SKM)
- The various “Abingdon VISSIM technical notes” produced by SKM and Halcrow
- Responses from the public consultations

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