

Network Rail (Cambridge South Infrastructure Enhancement) Order

Greater Cambridge Shared Planning

Statement to the Inquiry 18 March 2022

1. This statement is submitted on behalf of Cambridge City Council ('the City Council') (OBJ-32) and South Cambridgeshire District Council ('the District Council') (OBJ-24) (together 'the Councils') and provides the Councils' comments on the documentation submitted by the applicant to the Inspector on 11 March 2022.

Design Principles – NR 15.1

2. The Councils agree this document in the final form.

Updated Planning Conditions – NR12.1

3. The Councils agree the conditions in the final form with the exception of the following conditions:

Condition 13. Biodiversity Net Gain

4. The City Council has reviewed the letter provided by Cambridgeshire County Council regarding their commitment to offsite biodiversity net gain provision on Lower Valley Farm (INQ-62). This letter does not provide the City Council with sufficient assurance/comfort that this has been secured at this stage; the letter qualifies that the allocation of the units is "subject to County Council Member approval and contractual agreement". The City Council had previously sought to secure a commitment from Cambridgeshire County Council via their inclusion as a party to the Section 106 Agreement, as per the Draft S106 (NR25). However, the City Council no longer considers it to be practical or appropriate to include this as an obligation within the Section 106 Agreement, thus the County Council will no longer be a party.
5. The Council is satisfied that details of any offsite biodiversity net gain provision could be secured through an appropriate planning condition, which would allow provision at Lower Valley Farm or an acceptable alternative site. Amendments to condition 13 are therefore requested to secure this objective as shown in red below. This will include securing details of the proposed contractual arrangements, monitoring and reporting requirements for a minimum 30 year period as well as provisions to review and amend the scheme in response to any shortfalls or other desirable revisions to it. This is in accordance with the Environment Act and the City Council's recently adopted Biodiversity SPD (2022).
6. A further amendment picks up on the most up to date DEFRA metric V3 in line with the Environment Act.

13.	Biodiversity Net gain	<p>Network Rail shall achieve a no less than 10% Biodiversity Net Gain (BNG) based on the DEFRA metric V2 calculations demonstrated through document NRE-REB-06-01 containing Biodiversity Metric 2.0 calculations based on drawing Retained Enhanced and Created Habitat within Site Boundary dated January 2022.</p> <p>Updated Biodiversity Net Gain calculations based on the DEFRA metric V3 calculations will be submitted in accordance with Condition 29 to demonstrate the permitted development will achieve 10% Biodiversity Net Gain and confirm the units for different habitat types onsite and offsite.</p> <p>Prior to, or concurrently with, the last submission of details as required by condition 29, an Offsite Biodiversity Scheme to meet any onsite shortfall shall be submitted to and approved in writing by the local planning authority. The scheme shall include:</p> <ul style="list-style-type: none"> (i) details of the location site; (ii) Biodiversity Net Gain units; (iii) details of the contract to secure its delivery, monitoring and reporting to the local planning authority for a minimum 30 year period which will evidence the scheme's implementation and that its objectives are being met; and (iv) provisions to review, amend and implement any proposals to change the scheme. <p>The development shall be carried out in accordance with the approved details.</p> <p>Reason: To mitigate the impact of development and enhance biodiversity on the site and nearby.</p>
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Condition 29. Hard and Soft Landscaping

7. To ensure the approach to onsite biodiversity is consistent with the requirements for offsite provision, the City Council requests amendments as shown in red below to ensure the landscape and ecology management plan cover a minimum 30 year period, appropriate monitoring and remediation. The City Council recognises that the ongoing management and maintenance of the biodiversity enhancements on Hobson's Park and the Exchange Land will be the long-term responsibility of the City Council, nonetheless, this commitment should be secured through the consent in line with the City Council's Biodiversity SPD (2022) and the Environment Act. The amendment also updates to DEFRA metric V3.

29	Hard and Soft Landscape	<p>No development other than a Specified Phase shall commence until details of a hard and soft landscape scheme have been submitted to and approved in writing by the local planning authority. This scheme must be in accordance with the approved Parameter Plans and shall be submitted with a Design Compliance Statement demonstrating compliance with the relevant Cambridge South Design Principles (NR-15-1 dated March 2022) . Details of the scheme must include:</p> <ul style="list-style-type: none"> (a) proposed finished levels or contours including proposed grading and mounding of land areas including sections through the areas to show the proposed make-up of the mounding, the levels and contours to be formed and showing the relationship of proposed mounding to existing vegetation and surrounding landform (b) details of post formation soil decompaction. (c) car parking layouts, other vehicle and pedestrian access and circulation areas; hard surfacing materials; tree pits, including those in planters, wayfinding structures, hard paving and soft landscaped areas, minor artefacts and structures (e.g. Street furniture, location of artwork, refuse or other storage units, signs, lighting, CCTV installations and water features); proposed (underground elements need to be coordinated with the landscape plans prior to being installed) and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines indicating lines, manholes, supports); (d) planting plans with written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; (e) boundary treatments indicating the type, positions, design, and materials of boundary treatments to be erected; (f) a landscape and ecology management plan for proposed landscaped areas and green biodiverse roof over a minimum 30 year period, including long term design objectives, management responsibilities and maintenance schedules/programme for all landscape areas, and appropriate monitoring to ensure effectiveness including a process for remediation and review for any measures that have not been effective; (g) a Biodiversity Net Gain (BNG) report (including DEFRA metric V3 calculations) demonstrating BNG best practice and how the scheme contributes to the minimum 10% BNG for the development as a whole, (h) a wayfinding strategy; and (i) an implementation programme
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		<p>The development shall only be carried out and maintained in accordance with the approved details.</p> <p>If within a period of five years from the date of the planting, or replacement planting, any tree or plant (except through an Act of God or vandalism) is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place as soon as is reasonably practicable, unless the local planning authority gives its written consent to any variation.</p> <p>Reason: In the interests of visual amenity and to ensure that suitable hard and soft landscape is provided as part of the development (Cambridge Local Plan 2018; Policies 55, 57 and 59).</p>
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8. In addition to this, the Councils note the omission of informatives which have been requested (by the Councils) and should be applied. The following informatives were requested in the City Council's Statement of Case 15 September 2021 (E-11-OBJ/23) and in the District Council's Statement of Case 15 September 2021 (E-10-OBJ/24) respectively:

Informative: Greater Cambridge Sustainable Design and Construction SPD (2018)

Any artificial lighting, contaminated land, noise / sound, air quality impact assessments and mitigation shall have regard to the scope, methodologies, submission requirements and local planning policies of relevant sections of the Greater Cambridge Sustainable Design and Construction SPD (2018), (<https://www.cambridge.gov.uk/greater-cambridge-sustainable-design-andconstruction-spd>) and in particular 'section 3.6 – Pollution' and the following associated appendices; 6: "Requirements for Specific Lighting Schemes", 7: The Development of Potentially Contaminated Sites in Cambridge and South Cambridgeshire: A Developers Guide" and 8: "Further technical guidance related to noise pollution". Due regard should also be given to relevant and up to date Government / national and industry British Standards, Code of Practice and best practice technical guidance.

Informative: New culvert extension and drainage at Shepreth Branch junction

The culvert is located within an awarded watercourse to South Cambridgeshire District Council and any surface water drainage alterations which contribute to change of rate/volume of flow would require land drainage bye law approval by the District Council.

S106 – NR25

9. The City Council has discussed the wording of the travelling draft S106 Agreement with the applicant and has put forward the final form of wording provided in the Appendix A to this statement to the applicant to review. A summary and explanation of the main changes are as follows:
- i) Inclusion of a Hobson's Park Maintenance Contribution, as referred to in the draft Heads of Terms discussed with the applicant and as requested in the City Council's Position Statement dated 10.02.2022 (INQ-24 OBJ-23).
 - ii) Insertion of value of Monitoring Contribution based on the City Council's fair and reasonable estimate as requested by the applicant.
 - iii) Provision for covering the anticipated costs of replacement tree planting in the Tree Mitigation Scheme to be consistent with the requirement for any trees that are removed, uprooted or destroyed or dies within a five year period to be replaced.
 - iv) Removal of the option for Cambridgeshire County Council to receive transfer of Work No. 4 and Work No. 5, which coupled with the proposal to deal with off-site BDNG by condition rather than a planning obligation results in it no longer necessary to include the County Council as a party to the S106 Agreement.
 - v) Widening the circumstances for closure of the Access to include closures in the interest of public safety.
 - vi) Other Developer obligations (Sch 1 para 6) relative to Hobson's Park works

Revised draft Order – tracked changes version NR2.2

10. The City Council confirms the Order drafting relative to the AstraZeneca, University and Countryside permissions. The City Council confirms the amendments to definitions of 'the AstraZeneca permission' and 'the University permission'. This is on the basis that the impact of the waiving of enforcement rights in relation to these permissions and the specified conditions has been assessed and mitigation has been secured through the consent (namely through the Design Principles document secured through the planning conditions and the Tree Mitigation Scheme secured through the draft Section 106 Agreement).
11. The City Council requested that a planning justification be provided for the request from CBC/CML for the City Council to similarly waive its enforcement rights under the CBC/CML permissions. A copy of an email sent on behalf of the CBC/CML was forwarded to the Councils on 16 May, which is provided in Appendix B of this statement. The email 'narrows down' the request to a smaller number of conditions, however no amended draft Order has been provided to the City Council to review. Therefore, our comments are provided on the revised draft Order as submitted by the applicant.

12. The email states that, 'a forensic examination would take significant time (the agents believe take about two weeks) added to which (a) the works details to be included in the scheme have not been fleshed out and (b) given the type and nature of the assets (e.g. ponds/ drainage/ subterranean services) (which puts CML/CBC into a very different user category to the rest is simply not possible to envisage all possible breach scenarios'. The City Council agrees with this statement. Notwithstanding this, the email goes on to provide a limited assessment of some of the conditions.
13. The information provided by CBC/CML provides insufficient or justification for the City Council to make a reasonable assessment of the impact of the request. Therefore, the City Council does not agree to the Order drafting relative to the removing or the dilution of its enforcement powers in respect of the conditions attaching to the CBC/CML permissions. The impact of the waiving of enforcement rights in relation to these permissions – the Cambridge Biomedical Campus Phase 1 and Phase 2 as defined – and the specified conditions – which go beyond landscaping conditions – has not been properly assessed including any mitigation that would need to be secured through the consent.
14. The City Council will take a pragmatic view as to the enforcement against any breach of the CBC/CML conditions in the event that the development approved by the Order prevents any development permitted by the CBC/CML permissions being carried out as and when a situation arises. The City Council does not wish to fetter its enforcement powers under the Order in relation to CBC/CML permissions. To that extent the City Council seeks the removal of any references relative to the CBC/CML permissions/conditions from the Article 35 of the Order.

Note on the Clay Farm S106 and need for a Deed of Variation

15. The City Council agrees the text of the Clay Farm S106 Note as submitted by the applicant.

Schedule of Alterations which outlines the main changes between NR13 and NR13.1.

16. The amendments in relation to the drainage proposals, include i) proposed SUDS drainage attenuation basin removed from eastern forecourt to reflect CSET interface, ii) drainage attenuation basin south of Addenbrooke's Road (Nine Wells Bridge) relocated from east to west side of railway; and iii) new seasonal pond added north of proposed rail systems compound to replace removed balancing pond originally located south of the proposed rail systems compound. The applicant has confirmed that the outfall flow rates and flood storage capacity have not been affected by the relocation of the assets. The applicant has also confirmed that the drainage design will be subject to further consultation with the drainage officer, LLFA and Hobsons Conduit Trust as well as all the CBC stakeholders. The drainage design will be subject to discharge of the relevant planning condition.

17. The amendments to the indicative landscape plans shows the location of specimen trees planting to reflect the replacement AstraZeneca and Anne MacClaren Building landscaping. On the basis that these are indicative plans and are not included on the list of plans for approval within the deemed planning consent, the Councils are content with these annotations, noting that the Design Principles document introduces some flexibility to ensure the replacement tree planting that comes forward through the discharge of conditions and the Tree Mitigation Scheme within the S106 Agreement is appropriate and provides appropriate mitigation for the landscaping to be lost.
18. Similarly, the location of the proposed Corn Bunting song posts on the indicative landscape plans also show indicative siting with the detail to be secured through the discharge of condition.
19. The Councils also note that the drawing '158454-ARC-ZZ-ZZ-DRG-LEP-000102' have been titled 'Parameter Plans - Land Use and Landscape' and have assumed that this is an error and should refer to the 'Parameter Plans – Heights' drawing.
20. The Councils have reviewed the other amendments that have been made to the plans and have no further comments.

END

Appendix A – Amendments to draft S106 Agreement

Appendix B – Email on behalf of CMB/CML

From: Gill, Kerry <kerry.gill@dentons.com>

Sent: 16 March 2022 10:01

To: Charlotte Burton <Charlotte.Burton@greatercambridgeplanning.org>; Keith Barber <Keith.Barber@3csharedservices.org>

Cc: Vas, Michele <michele.vas@dentons.com>

Subject: CML/CBC - Compromise agreement (Fieldfisher Comments) - Relevance also to CCL [DEN-UK_ACTIVE.FID9056300]

I'm using Mimecast to share large files with you. Please see the attached instructions.

I'm using Mimecast to share large files with you. Please see the attached instructions.

Hi both

I have received some e-mails from CBC/CML's lawyer on the Article 35 point (please see below). There is one further e-mail which I will forward also.

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From: Emily Tetley-Jones <Emily.Tetley-Jones@fieldfisher.com>

Sent: 15 March 2022 11:57

To: Vas, Michele <michele.vas@dentons.com>

Cc: Susan Simpson <Susan.Simpson@fieldfisher.com>; Rosa Simson <Rosa.Simson@fieldfisher.com>; Sinead Thomasson <Sinead.Thomasson@fieldfisher.com>; SPENCER Oliver <OliverSPENCER@bdbpitmans.com>; John Bowman <John.Bowman@fieldfisher.com>

Subject: RE: CML/CBC - Compromise agreement (Fieldfisher Comments) - Relevance also to CCL [DEN-UK_ACTIVE.FID9056300]

[WARNING: EXTERNAL SENDER]

Dear Michele

Further to my voicemail I haven't been able to reach you so given your longstop of midday please see below in response to your email:

The Article 35 order exclusion wording that Dentons/Pitmans suggested we use is " *To the extent that the carrying out of any development in accordance with a direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the authorised works prevents any development permitted by the [TBC] permission (within the Order limits) from being carried out in accordance with the [] condition, then to that extent there is deemed to be no breach of [TBC] condition concerned [...]*"

At your request we highlighted the following conditions as being of concern to CBC/CML:

PP 14/1691/S73 dated 2 April 2015 (landscaping and drainage):

- 15-21 inclusive
- 42-44 inclusive

Permission 16/0176/OUT:-

- Condition 32 – (Cycle/pedestrian crossings)
- Condition 38 (Ecology)
- Condition 49 (Landscaping)

You have now confirmed that the council wants more detail as to why those conditions should be excluded. As mentioned a forensic examination would take significant time (the agents believe take about two weeks) added to which (a) the works details to be included in the scheme have not been fleshed out and (b) given the type and nature of the assets (eg ponds/ drainage/ subterranean services) (which puts CML/CBC into a very different user category to the rest is simply not possible to envisage all possible breach scenarios.

I have gone through the planning conditions referred to above with my client and we have been able to narrow them down somewhat but what we are left with is the site wide obligations where the cause and effect of the station works will not be known at this stage.

The wording suggested above will only 'kick in' to the extent that my clients cannot carry out their obligations under the planning conditions thanks to your client's works so it is not as if my clients are asking for an exemption to compliance (they simply want the comfort of knowing they will not be enforced against to the extent your client's works prevent such compliance.

PP 14/1691/S73 dated 2 April 2015 (landscaping and drainage):

- S 15 (site wide Nature conservation Management Plan) – the development is in clear conflict with our Phase 1 and we cannot assess how this will affect issues such as pollution/ wildlife/ drainage etc
- S 17 (Strategic suite surface water) – Strategy Report to be complied with – the station will have a huge impact on Phase 1 and as such this must be excluded
- S20 (surface water modelling) Compliance with Hydraulic Modelling Report – the station/ works will be connecting in to my client's infrastructure and building new – It is surely therefore reasonable to expect that this obligation be carved out to the extent the scheme prevents compliance
- S21 (Foul water)- see comment re s.20
- S42 (Landscaping Site Wide Scheme) We are trying to get hold of the drawing referred to being 1777/C42/0001C-44 inclusive as this shows the direct conflict between the scheme and the landscaping features to be installed
- S 43 is relevant to s 42 because it deals with the replacement and maintenance of such features within the 5 year period (which should not apply if in fact it is the order works which have caused the damage in the first place)
- S 44 (Structural Landscaping Management Plan) – Compliance with Management specification 4 November 2011. To the extent alternatives are agreed a new management scheme is to be agreed. Again logically to the extent the scheme cuts across this we do need a carve out.

Permission 16/0176/OUT:-

- Condition 38 (Site Wide Ecology Plan) – please see comments above
- Condition 49 (Landscaping) – specific obligations/ timings re issues such as replanting (this could very well be relevant to the development of the MSC)

Kind regards

Emily

Emily Tetley-Jones

Director

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fieldfisher



