

**The Network Rail Cambridge South Infrastructure Enhancement Order****Response to Inspector's Adjournment Note 4.****1 Introduction**

- 1.1 This note is prepared in response to the Inspector's Adjournment Note 4 (INQ 77). It relates to additional amendments made to Article 35 of the draft Order (INQ 71). A copy of the proposed Article 35 is attached at Appendix 1 to this note. This note uses the same defined terms as set out in paragraph (7) of Article 35 of the draft Order (and the draft Order generally).
- 1.2 As set out in the Explanatory Memorandum (INQ 72) to the Order, the purpose of paragraphs (4) to (7) of Article 35 is to acknowledge that the authorised works could compromise full compliance by surrounding landowners with certain planning conditions related to the specific planning permissions identified in the Article. In the event that the authorised works do conflict with one of the identified landowners' ability to comply with the identified planning permission then it prevents the local planning authority from enforcing the breached planning conditions against the affected landowner.
- 1.3 The local planning authority (Cambridgeshire City Council) has reviewed Article 35. It confirmed at the inquiry that it was content with the principles of Article 35 insofar as it related to the identified AstraZeneca permission and University permission (as defined in Article 35). Following the session at the public inquiry which considered the inclusion of Article 35, the wording was amended to accommodate points raised by the Council at the hearing. These additional amendments to the AstraZeneca and University permissions have been agreed by both the Council and the affected landowners.
- 1.4 Discussions to resolve objections made on behalf of Countryside Cambridge One Limited and Countryside Cambridge Two Limited (Countryside) and Cambridge Medipark Limited and CBC Estate Management Company Limited (CBC/CML) continued following the inquiry session held to review Article 35.
- 1.5 Similar issues were raised by Countryside and CBC/CML regarding concerns as to the interface between the authorised works and existing planning conditions relating to their respective developments. Accordingly, the approach used in Article 35 is proposed to resolve the concerns and to assist in securing the withdrawal of their objections.
- 1.6 Discussions have taken place with the Council to identify the conditions which may be affected in terms of their interface with the authorised works with the Countryside permission and the identified CBC/CML permissions.
- 1.7 The Council has confirmed in its Statement to the Inquiry dated 18 March (INQ 70) at paragraph 10 that the drafting relating to the Countryside permission, along with the revised wording relating to the AstraZeneca permission and University permission is in an approved form (see also attached e-mail from the Council confirming the Countryside permission wording within Article 35 is agreed dated 24 February 2022 (Appendix 2). Therefore, on the basis that the inclusion of these three permissions is agreed by the Council, this note does not provide any further justification in relation to those three consents, which for the avoidance of doubt includes the Countryside permission.

- 1.8 The Council has however expressed that it does not consent to the inclusion of the "CBC/CML permission 1" and "CBC/CML permission 2" (together for the purpose of this note the "CBC/CML permissions") within Article 35. The purpose of this note is to respond to the Inspector's request for further justification for inclusion of the CBC/CML permissions (and identified conditions) within Article 35.

## 2 The CBC/CML Permissions<sup>1</sup>

- 2.1 This section identifies the planning permissions and relevant planning conditions which CBC/CML has identified to the Applicant it has requested be included in Article 35 of the Order – this forms part of its requirements in order to withdraw its objection to the Order.

- 2.2 The CBC/CML permissions and conditions which are referenced in Article 35 are as follows:

### "The CBC/CML permission 1"

- 2.3 This is an outline planning permission granted by Cambridge City Council on 2 April 2015 and given reference number 14/1691/S73 for:

*"Section 73 to vary condition 63 of planning approval 06/0794/OUT for: up to 215,000sqm floorspace (excluding plant areas) comprising 60,000 sqm of clinical research and treatment (D1 and/or clinical in-patient treatment) 115,000sqm of biomedical and biotech research and development (B1(b)); 15,000sqm of biomedical and biotech research and development (b1(b)) or clinical research and treatment (D1 and/or clinical in-patient treatment) and 25,000sqm of either clinical research and treatment (D1 and/or clinical in patient treatment) or higher education or sui generis medical research institute uses, and including related support activities within use classes A1, A3, B1, D1 (creches/nurseries) or sui generis uses, with no individual premises used for support activities to exceed 500sqm; new areas of public realm, landscaping, parking areas, highway works, drainage works and all other associated infrastructure."*

- 2.4 The planning conditions from which Article 35 seeks to remove enforcement action are:

- 2.4.1 Condition 15: compliance with the Site Wide Nature Conservation Management Plan dated September 2020;
- 2.4.2 Condition 16 Reserved matters to accord with the Nature Conservation Management Plan and ecological measures to be carried out in accordance with the approved details and timing of delivery.
- 2.4.3 Condition 17: compliance with the Cambridge Biomedical Campus Extension Surface Water Strategy Report dated 20 October 2011;
- 2.4.4 Condition 18: requirement for reserved matters to include a detailed surface water strategy and compliance with approved details.
- 2.4.5 Condition 19: compliance with the Groundwater Assessment Report Cambridge Biomedical Campus September 2011.

<sup>1</sup> Please refer to the respective planning permission for the detail of each conditions, this note provide a high level of summary of main principles only and should not be relied on as providing full details of the condition wording.

- 2.4.6 Condition 20: compliance with the Cambridge Biomedical Campus Hydraulic Modelling Report dated August 2010;
- 2.4.7 Condition 21: compliance with identified plans relating to proposed foul drainage layout, proposed route of plumbing main, infrastructure and external serviced details sheet (foul water) General arrangement of pumps and pump station compound details.
- 2.4.8 Condition ~~24: compliance with the approved remediation strategy;~~[42: structural landscaping along the western edge of the allocated biotech and biomedical research and development area, south of the Cambridge Guided Bus Embankment area is to be carried out in accordance with the approved drawings](#)
- ~~2.4.9 Condition 25: no further works to take place which would prejudice works carried out under the approved scheme of remediation.~~
- ~~2.4.10 Condition 26: compliance with the approved Materials Management Plan document.~~
- ~~2.4.11 Condition 27: notification and remediation proposals to be implemented as approved where unexpected contamination is identified.~~
- ~~2.4.12 Condition 28: requirements to be complied with if a generator is installed.~~
- ~~2.4.13 Condition 29: submission of and compliance with approve details relating to demolition/construction noise and vibration associated with development of a reserved matters parcel.~~
- ~~2.4.14 Condition 30: piling method statement to be submitted where proposed for a reserved matters application to cover certain matters, and thereafter complied with.~~
- ~~2.4.15 Condition 31: within each reserved matters application details of cycle and pedestrian facilities along the northern site boundary to provide pedestrian and cycle connectivity to Dame Archer Way to be provided and thereafter complied with.~~
- ~~2.4.16 Condition 32: compliance with approved off-plot cycle and pedestrian facility provision.~~
- ~~2.4.17 Condition 33: car parking provisions for any biotech or biomedical research development use to be provided at a ratio of 1 space for every 80 metres of gross floor area.~~
- ~~2.4.18 Condition 34: car parking provisions for employees of any clinical research and treatment or higher education or sui generis to be provided at a ratio of 1 space every 72 square metres gross floor area.~~
- ~~2.4.19 Condition 35: car parking for patients and visitors for clinical research and treatment or higher education or sui generis medical research institute to be provided at a ratio of 1 space for every 773 square metres of gross floorspace.~~
- ~~2.4.20 Condition 36: disabled car parking spaces to be at least 5% of the total number of spaces provided.~~
- ~~2.4.21 Condition 37: provides requirements relating to the provision of cycle parking spaces.~~
- ~~2.4.22 Condition 38: compliance with approved site wide ecological conservation management plan.~~

~~2.4.23 Condition 39: compliance with approved ECML submitted with each reserved matters application.~~

~~2.4.24 Condition 40: requirements relating to archaeology and compliance with the approved written scheme of investigation.~~

~~2.4.25 Condition 41: surface water drainage strategy for each reserved matters application to then be complied with as approved.~~

~~2.4.26 Condition 42: details for long term maintenance and arrangements for any surface water drainage system which will not be adopted to be submitted and approved by the Council and thereafter complied with as approved.~~

2.4.9 ~~2.4.27 Condition 43: submission and compliance with a sustainability statement which is consistent with the approved Turley Associated Bespoke Sustainability Strategy.~~ all planting, seeding or turfing comprised in the approved structural landscaping shall be carried out in accordance with approved plans with replacement of trees or plants within 5 years if damaged/die or diseased.

2.4.10 ~~2.4.28 Condition 44: review of the Bespoke Sustainability Strategy every 3 years, to be submitted to and approved by the Council.~~ the Management of the structural landscaping shall be carried out in accordance with the Cambridge Biomedical Campus Western Boundary Landscape Management Specification dated 4 November 2011 or such alternative management plan for a minimum period of 25 years.

"The CBC/CML permission 2"

2.5 This outline planning permission was granted by Cambridge City Council on 5 September 2017 and given reference number 16/0176/OUT for:

*"Development of up to 75,000 sqm of floorspace (excluding plant areas) of Research and Development B1(b) and Clinical (C2 and/or D1), sui generis and higher education uses including related support activities within use class B1; ancillary uses in addition (A1, A3, A4, A5 and D1, and/or D2): up to two multi-storey car parks; open space and landscaping and all other associated supporting infrastructure".*

2.6 The planning conditions from which Article 35 seeks to remove enforcement action are:

2.7 Condition 32: provisions of the pedestrian and cycle connections in accordance with the approved details and phasing.

2.8 Condition 38: provisions of species and habitat protection, enhancement restoration and creation measures to be carried out in accordance with the approved Site Wide Ecological Conservation Management Plan submitted and approved pursuant to the requirements of condition 38;

2.9 Condition 49: provision of landscaping in accordance with the approved landscaping schemes approved as part of each reserved matters application.

### **3 Justification for inclusion of CBC/CML permissions**

3.1 The important distinction between the inclusion of the CBC/CML permission and AstraZeneca and University permissions is that it only relates to any breaches which occur within the Order limits (as identified on the relevant order plans.) The scope of Article 35 is therefore limited.

- 3.2 The conditions identified in relation to CBC/CML permissions are on the basis that they impose site wide requirements principally relating to drainage and nature/ecology/landscaping matters. The detailed design of the authorised works, particularly in relation to detailed landscaping and drainage elements are to be developed. At this stage CBC/CML has therefore identified planning conditions where there could be an interface with details to be submitted and worked up as part of the authorised works. Until further detail on potential interfaces is therefore known, CBC/CML require the protections afforded under Article 35.
- 3.3 The Applicant would emphasise that the inclusion of the identified CBC/CML permissions and conditions does not provide an automatic exemption for CBC/CML from enforcement action. It is only if the authorised works prevents CBC/CML from complying with a planning condition on either of the consents, and that a breach of that condition occurs in relation to land within the Order limits, that CBC/CML is afforded protection from enforcement.
- 3.4 Therefore, any breach within the Order limits not caused as a consequence of the authorised works, or any breach of any sort outside the order limits, remains capable of being enforced by the Council in the usual way.
- 3.5 The nature of possible interface issues can more aptly be explained in relation to the following landscaping and drainage related conditions:

CBC/CML permission 1 - PP 14/1691/S73 dated 2 April 2015 (landscaping and drainage):

- (a) condition 15 (site wide Nature conservation Management Plan) – the authorised works conflict with Phase 1 of this consent. There will need to be an assessment, how the authorised works will affect issues such as pollution/ wildlife/ drainage requirements set out in the approved plan.
  - (b) condition 17 (strategic suite surface water) – it is likely that the new station will have impact on previously approved Phase 1 drainage details.
  - (c) condition 20 (surface water modelling) Compliance with Hydraulic Modelling Report – the station/ works could interface with drainage infrastructure constructed as part of Phase 1, but no entirely in keeping with the approved reports.
  - (d) condition 21 (Foul water)- same issue as identified in paragraph (c) above.
  - (e) condition 42 (Landscaping Site Wide Scheme) Drawing 1777/C42/0001C is attached at Appendix 7. There is a need to allow for any differences in landscaping treatment between this plan and a scheme which may be approved relating to the authorised works.
  - (f) condition 43 is relevant to condition 42 because it deals with the replacement and maintenance of such features within the 5 year period (which should not apply if CBC/CML are unable to comply with the maintenance requirements as a consequence of the authorised works.).
  - (g) condition 44 (Structural Landscaping Management Plan) –to the extent the authorised works are inconsistent with the approved plan.
- 3.6 CBC/CML permission 2:6/0176/OUT dated 5 September 2017:-

- (a) Condition 38 (Site Wide Ecology Plan) – There will need to be an assessment, how the authorised works will affect issues such as pollution/ wildlife/ drainage requirements set out in the approved plan.
- (b) Condition 49 (Landscaping) – similar to condition 43 (identified above) with the replacement and maintenance of such features within the 5 year period (which should not apply if CBC/CML are unable to comply with the maintenance requirements as a consequence of the authorised works.)

3.7 The Inspector's attention is drawn to the final draft planning conditions (INQ74). These conditions are in an agreed form with the Council and secure a series of measures which will mitigate and minimise any interface issues with surrounding developments. Principle conditions include:

- (a) Condition 2 and 3 – compliance with the approved detailed plans and agreed design principles.
- (b) Conditions 13 and 29 together secure the detailed landscaping treatment and bio-diversity net gain thereby ensuring the authorised works will provide the requisite mitigation and enhancement of biodiversity.
- (c) Condition 14- 16 – secure detailed drainage/surface water management provisions both during construction and operational phases.
- (d) Condition 34, 35 and 36 secures an arboriculture method statement and tree protection plan during construction and operational phases together with tree planting provisions.

## 4 Conclusion

4.1 In conclusion therefore:

- (a) The Council has agreed that Article 35 include reference to the Astrazeneca permission, Countryside permission and University permission, including the relevant conditions specified.
- (b) There is a need to include reference to the CBC/CML permission 1 and CBC/CML permission 2 for the reasons explained above. The consents secure a series of site wide strategies [on landscaping matters \(consistent with the approach taken for the other identified permissions\)](#) and the authorised works potentially will interface with those site wide matters which could result in non-compliance with previously approved details where those interfaces occur.
- (c) Article 35 does not automatically exempt the identified planning conditions to be exempt from enforcement notice if breached. Any breach is restricted a breach within the Order limits and has to be as a consequence of the carrying out of the authorised development.
- (d) The planning conditions properly secure all mitigation and other measures to be secured as part of the detailed design provision. The Council is responsible for discharging details submitted pursuant to the planning conditions and all mitigation will need to meet with the requirements sought by the Council.

- 4.2 There is no objection to the principle of what paragraph (4) to (7) of Article 35 secures, this was confirmed at the session considering Article 35 at the public inquiry, and subsequent representation made by the Council. It is considered that this note provides sufficient justification that Article 35 incorporates reference to the identified CBC/CML permissions. Accordingly, the Applicant requests that Article 35 be accepted in its current form for inclusion in the Order.

### **List of Appendices**

- 1 Appendix 1 – Extract of Article 35 from draft Order
- 2 Appendix 2- E-mail dated 24 February 2022 from Council to Applicant confirming the wording relating to the Countryside permission for inclusion at ~~Artiel~~[Article](#) 35 is agreed.
- 3 Appendix 3 - E-mails dated 3 March 2022 and 8 March 2022 from Applicant to Council containing amended Article 35 wording to include reference to the CBC/CML permissions
- 4 Appendix 4 – CBC/CML permission 1 reference 14/1691/S73 and site plan
- 5 Appendix 5 – CBC/CML permission 2 reference 16/0176/OUT and site plan
- 6 Appendix 6 – Cambridge Biomedical Campus Nature Conservation Management Plan and (Landscaping Site Wide Scheme) Drawing 1777/C42/0001C



## Appendix 1

### Extract of Article 35

(1) The AstraZeneca conditions, University conditions, Countryside condition and CBC/CML conditions have no effect within the Order limits.

(2) 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 AstraZeneca permission (whether or not within the Order limits) from being carried out in accordance with any of the AstraZeneca conditions, then to that extent—

- (a) there is deemed to be no breach of the AstraZeneca conditions concerned, and
- (b) no enforcement action may be taken in respect of the development carried out under the AstraZeneca permission.

(3) 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 University permission (whether or not within the Order limits) from being carried out in accordance with any of the University conditions, then to that extent—

- (a) there is deemed to be no breach of University conditions concerned, and
- (b) no enforcement action may be taken in respect of the development carried out under the University permission.

(4) 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 Countryside permission (within the Order limits) from being carried out in accordance with the Countryside condition, then to that extent

- (a) there is deemed to be no breach of Countryside condition concerned, and
- (b) no enforcement action may be taken in respect of the development carried out under the Countryside permission.

(1) 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 CBC/CML permission 1 and/or CBC/CML permission 2 (within the Order limits) from being carried out in accordance with the CBC/CML conditions, then to that extent

- (a) there is deemed to be no breach of CBC/CML conditions concerned, and
- (b) no enforcement action may be taken in respect of the development carried out under the CBC/CML permission1 and/or CBC/CML permission2.

(2) In this article—

“the AstraZeneca conditions” mean conditions 42 and 45 of the AstraZeneca permission;

“the AstraZeneca permission” means the outline planning permission granted by Cambridge City Council on 5 March 2015 and given reference number 14/2094/S73 (amending the outline planning permission granted by Cambridge City Council on 15 October 2009 and given reference number 06/0796/OUT) with reserved matters approved by Cambridge City Council under the reference numbers 14/1633/REM, 19/1070/REM and 20/05027/REM and any subsequent permission under section 73 of the 1990 Act or any non-material amendment to any of those permissions and approvals;

“the CBC/CML conditions” means conditions 15 to 21 and ~~24~~<sup>42</sup> to 44 of the CBC/CML permission 1 and conditions 32, 38 and 49 of CBC/CML permission 2;

“The CBC/CML permission 1” means the outline planning permission granted by Cambridge City Council on 2 April 2015 and given reference number 14/1691/S73;

“The CBC/CML permission 2” means the outline planning permission granted by Cambridge City Council on 5 September 2017 and given reference number 16/0176/OUT;

“the Countryside permission” means the outline planning permission granted by Cambridge City Council on 6 August 2010 and given reference 07/620 OUT with reserved matters 15/1829/REM and any further S73 permission under section 73 of the 1990 Act or any non-material amendment to those permissions and approvals;

“the Countryside condition” means condition 11 of the Countryside permission;

“the University conditions” means mean conditions 42 to 47 of the University permission; and

“the University permission” means the outline planning permission granted by Cambridge City Council on 5 March 2015 and given reference number 14/2094/S73 (amending the outline planning permission granted by Cambridge City Council on 15 October 2009 and given reference 06/0796/OUT), together with reserved matters approved by Cambridge City Council under reference number 16/0653/REM and any subsequent permission under section 73 of the 1990 Act or any non-material amendments approved in relation to any of the aforementioned permissions and approvals.

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