

Planning Committee 23rd November 2020

Planning Application P/2017/0254/OUP

Report Addendum

1. Further to the publication of the agenda for the above, a number of additional matters have arisen that are now set out below.

Parameter Plan

2. The parameter plan attached for consideration in the agenda shows a distance of 40 metres between the southern boundary of the site, common with the adopted highway, and the southern boundary of building permitted in the south west of the site.
3. On Friday 20th November, the Council received correspondence including an amended parameter plan from the applicant. The applicant states that it had been noted that the detail described in paragraph 1 is a drawing error. The applicant states that the parameter plan should include a larger vertical 'no build zone' such that there should be a distance of 75 metres between the southern boundary of the application site and the southern boundary of building permitted in this location.
4. The plan attached to the agenda and the plan now submitted are attached for information here, where the area to which the change relates has been highlighted. You will note that the area shaded blue (development parcel) is set further away from the A580 in the plan than the applicant now wishes to be considered.
5. It should be noted that as per paragraph 8.199 of the committee report, the location of the 5 metre high acoustic barrier is not reflective of the content of the submitted noise assessment.
6. The applicant states that it is an inherent assumption running through the written analysis contained in the second addendum to the Environmental Statement submitted in May 2020 that analyses are based on 75 metres rather than 40 metres. It should be noted that the analysis is not explicit in this regard. However, a superseded parameter plan, did show a distance of 75 metres. In addition, the two illustrative masterplans are also based on implementation of the larger distance and confirmation has been received from the applicant that the submitted artists impressions are also based on this distance.
7. Following submission, consultation was carried out with the Council's Countryside Development and Woodlands Officer who had previously provided comments in respect of the landscape and visual impact assessment. The response states that the parameter plan shows an improvement in that the vertical build in this location will be set back and there is a slight increase/change in the landscaping width. It does not substantially change previous comments.
8. Paragraph 8.159 of the committee report considers the set back of the development from the A580 in particular where there is reference to the inadequacy of a distance of 40 metres between the southern elevations of the buildings on site and the A580. An

increase to 75 metres is clearly an improvement and is to be welcomed and is closer to the 90 to 100 metre set back at Omega. However, comments relating to the acoustic fence and the width and adequacy of the landscaping in this location remain unchanged at this point.

Other Information

9. Following publication of the agenda, further correspondence was received on Friday 20th November raising a number of additional points. As with all application documents, the correspondence has been published on the website for you to view in full. However, some of the points are considered below.

Junction 23 Study

10. Members may be aware that the Council, Highways England and Wigan Council recently funded a study into the future of junction 23 of the M6. The findings of the study have been published in draft and shared with the applicant. The study provides a solution to the future operation of Junction 23. It is not adopted Council policy, nor is any funding identified by any of the parties to bring it about.

The applicant's case

11. The applicant contends that the applicant's case for planning permission, including the 'other considerations' presented within the applicant's submission, is the scheme's compatibility with and contribution to a future improvement scheme to Junction 23 of the M6 which the Council is seeking to deliver. Neither the summary of the applicant's assessment in the report nor the Officers' own assessment considers this issue in any detail.
12. The applicant states that the scheme includes provision for the diversion of the northern arm of the A49 through the development site as part of the scheme. This allows this arm of Junction 23 to be closed for vehicles travelling south along the A49 towards the junction and thus taking this arm out of the junction. This diversion has a dual purpose in also facilitating access to the development site and plots within it.
13. The applicant states that the A49 diversion represents the critical first phase of a wider proposal to improve the operational efficiency and safety of Junction 23 as detailed within the Junction 23 Study. It is understood that the Council has now put forward a proposal for funding for the improvement scheme to the Liverpool City Region Combined Authority.
14. The applicant states that there is no question that the diversion of the A49 will contribute significantly to the improvement of Junction 23 in operational and financial respects – and indeed would make such a contribution even if another improvement option to that presented in the Junction 23 Study is implemented in future. Fundamental to any form of long term improvement to Junction 23 is the diversion of the A49.
15. The applicant states that the proposed access arrangement is therefore a product of the applicant working with Council officers to identify the development's contribution to a wider Junction 23 scheme, such that the development has been designed to deliver a first phase of the wider Junction 23 scheme. The applicant states that without this,

the access arrangement may have taken a different form, though the significant public benefits in providing the first phase of a long term improvement to Junction 23 and providing the means by which the remainder of the improvement scheme can then be viably delivered would not be provided by an alternative.

16. The applicant submits that the diversion of the A49 represents a significant financial benefit, being a £10 million investment. This represents a substantial contribution to the proposed Junction 23 improvement scheme which would, due to significant match funding potential, improve the prospects of achieving full funding for the wider scheme. The applicant states that the delivery of the development is the only viable means by which the A49 diversion, as a critical component of any future enhancement to Junction 23, can be achieved. Without this the proposed wider scheme for the improvement to Junction 23 cannot be delivered.
17. The applicant states that this benefit is unique to this development and no other logistics development which has been before the Planning Committee has been able to offer a benefit equivalent to this. The applicant states that it is essential that members are given a full explanation of the Junction 23 improvements, and the importance of the scheme within this context. It otherwise cannot be fully assessed. It is applicant's case that this contributes to the extent to which 'other considerations' outweigh the development's harm to the Green Belt and other harm when applying the test in paragraph 144 of the NPPF.

The Council's Assessment

18. The study was commissioned on the basis of on-going capacity issues at the junction. The study presents a recommended solution to the capacity issues at junction 23. It is not Council policy and there is no funding available for implementation. It is an asset that belongs to Highways England. Notwithstanding the applicant's comments above, a funding application has not been made to the Liverpool City Region Combined Authority. The improvement of Junction 23 is included in a transport pipeline, along with a number of other schemes, but there is no formal funding application that is specific to this scheme. It is likely that funding would come from a number of sources in any case were the particular solution recommended in the junction to be pursued. At this point in time, other than the diversion of the A49 through the proposed development, there is no real prospect of the comprehensive solution recommended in the study coming forward. However, the applicant states that there is a significant benefit as it would enable a solution to come forward. It is your officers view that there is no evidence to support this view and so it is not possible to determine whether this is or is not the case at this point in time. It can only be given limited weight therefore.
19. The applicant further states that the access arrangements to the site have been put forward on the basis of facilitating the improvements to junction 23. The committee report states that diversion of the A49 through the site will improve capacity along with an improvement scheme at the junction itself. The applicant states that the access arrangements have been submitted as a result of assisting in implementation of an improvement scheme at junction 23 and that alternative arrangement would be possible that could have been submitted. The committee report states that the diversion of the A49 through the site will improve capacity. This is a benefit of the scheme and it is acknowledged that this could bring about improvements in the future. The fact that the applicant could have pursued an alternative access arrangement that did result in this improvement is not material to the decision.

20. The applicant states that this aspect of the scheme represents a significant investment. The economic benefit of the development is considered at paragraph 8.71 and it is agreed that the investment should be given significant weight in favour of the proposed development.

Conclusion on Junction 23 Study

21. The applicant states that the development provides a significant benefit within the context of 'other considerations' that in their view outweighs the harm to the Green Belt and any other harm.
22. As stated, the Junction 23 study represents a particular solution to the capacity issues at the junction. It is not adopted Council policy nor is there any funding available to bring it about. It is acknowledged that the diversion of the A49 through the site will benefit the junction and accommodate the development traffic and this is a benefit of the scheme. However, it is concluded that the matter has limited weight in the planning balance.

Further comment on highway impact

23. The applicant states that paragraph 9.7 of the committee report is not correct in its representation of the highway impacts of the proposal. In this context, the highway implications of the proposal are presented as an adverse impact of the development, albeit one which is not severe. This is clearly presented in the report as an area of 'other harm' in the planning balance and thus is of material relevance to the overall recommendation, and particularly the conclusion that the scheme's VSC case is 'finely balanced.'
24. The applicant states that the benefits to the operation of the highway at Junction 23 to be delivered as part of the scheme, are not taken into account in the planning balance. The applicant states that the technical evidence submitted in support of the application, including the diversion of the A49 and the proposed mitigation works at M6 Junction 23, would lead to the improved operational performance of the junction when compared to the baseline as per the technical review undertaken by your Mott MacDonald on behalf of the Council.
25. Paragraph 3.3 of the committee report does report the response from Mott MacDonald on highways matters and states that the development would bring about an operational improvement to junction 23. This is considered at paragraph 8.111 which states that the operation of the M6 J23 with the addition of the mitigating works and development traffic "improves when compared to the current situation".
26. Paragraph 9.7 sets out the highways position in the overall conclusion and planning balance. It states that there would be an increase in traffic flows resulting in some additional queueing at some junctions. It is accepted that, notwithstanding this comment, that the operation of junction 23 would improve as a result of the proposed development and that queueing in this location would improve. This should weigh in favour of the proposals in the overall planning balance.

Alternative Site Assessment (ASA)

27. The applicant states that notwithstanding the content of paragraph 3.38 of the committee report, whilst the conclusions of the Council's Green Belt Assessment in relation to the application site are not agreed, this is not the reason why the site is progressed to Stage 4 in the Alternative Site Assessment. It is changes to the Council's Green Belt evidence presented in its 2018 Study compared to the 2016 equivalent and particularly that a number of previous 'amber' sites are changed to 'red' which explains the change in approach at Stage 3 of the ASA process. If previous versions of the ASA took the same approach in only advancing sites which achieved a 'green' or 'amber' Green Belt score to stage 4, then the cumulative size of sites progressing to stage 4 would be significantly below the residual need identified by reference to the Council's evidence of need.
28. As such, the applicant considers that the stage 3 filter is not considered to be appropriate in the ASA as some sites which are given a 'red' score in the 2018 Green Belt Study are, on a quantified basis, needed to meet the identified employment land need. This was not the case at the time of the original ASA because the criteria applied in the 2016 Green Belt Assessment meant there were sufficient sites achieving an 'amber' score, including the application site.
29. Notwithstanding this, the applicant acknowledges that the committee report concludes that the principal purpose of the ASA process is to consider whether the development could be delivered on a non-Green Belt site. This is agreed as is the overall conclusion that the development cannot be accommodated on anything other than a Green Belt site.

Approach to disaggregation

30. The applicant states that the committee report states that sites of 12 hectares and above have been considered through the ASA process. They say that this is not the case. The original ASA (March 2017) considered sites of 12 ha and above but a second submission (January 2018) considered a further supply of sites of between 5 and 12 hectares in size. A third ASA (May 2020) is also based on sites of 5 hectares and above. It is accepted that the applicant has considered sites of 5 hectares and above such that the comments at paragraphs 3.37 and 8.60 should be substituted/read within this context.

Ecological Impact

31. The applicant refers to paragraph 8.144 of the committee report which concludes that the development would result in an overall adverse impact in ecological terms and this should be weighed accordingly in the planning balance. The applicant states that there is no evidence or justification to support this conclusion, and it is at odds with the assessments submitted in support of the application which explain the compensation and mitigation measures proposed. The applicant is committed to achieving a 10% biodiversity net gain against the site's baseline and thus, contrary to the conclusion of overall harm, the development will realise an improvement against the ecological baseline. This will be achieved through a combination of on and off site measures and secured through the Section 106 Agreement. The applicant refers to the concluding remarks at paragraph 9.8 in this regard also.

32. It is worth noting that the applicant's proposals for 10% biodiversity net gain were submitted just prior to publication of the committee report. The applicant was made aware that given the lateness of the submission in the process, that it may not be considered in the report in full given the need to gain input from technical consultees and the need to publish the report on time, notwithstanding reference in the report. A commitment was made by officers to consider the matter in the oral presentation to members. However, as the applicant has raised it formally, it is appropriate to consider it here also.
33. The applicant's proposals are to provide compensation and mitigation for loss as a result of developing the site. As a general point, they are not a benefit of the development. A 10% biodiversity net gain is the minimum policy requirement to be provided by the applicant and has been submitted as a commitment to be included in a planning obligation as stated in the committee report. The development complies with policy, including the 10% biodiversity net gain. However, it cannot be said to have a beneficial impact in the planning balance overall.

Overall Conclusion and the Planning Balance

34. Section 9 of the committee report considers the overall planning balance. In relation to the information considered here, the potential for implementation of comprehensive improvements to Junction 23 as a result of allowing the development has limited weight in favour, although whether a scheme would come forward as a result of allowing the development is not known and there are no guarantees. The proposed highway arrangement means that there would be a positive impact on junction 23 that would weigh in favour of the proposed development. The ecological impact would not for the reasons stated above.
35. Paragraph 9.15 of the committee report considers the planning balance as a whole. It states that the contribution that the development would make to the Council's employment land position is significant and of particular importance, given that the need is of such a quantum and character that only Green Belt sites are likely to satisfy it. There are a number of other matters that weigh in favour of the development, including those stated here, but it is still considered that the assessment to be undertaken to satisfy Green Belt policy is finely balanced when those factors that contribute to harm to the Green Belt and other harm are also taken into account. The overall conclusion does not change therefore.