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Our Ref: 332610474

Oxfordshire County Council
County Hall
New Road
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Dear Sir/Madam

RE: SECTION 73 PLANNING APPLICATION TO AMEND PLANNING CONDITIONS ATTACHED TO PLANNING PERMISSION R3.0039/22, A40/B0422 SHORES GREEN JUNCTION, WITNEY, OX29 6UU

On behalf of Oxfordshire County Council (“the Applicant”), please find enclosed a Section 73 planning application to amend planning condition nos.1 and 18 attached to planning permission R3.0039/22, which relates to a series of highways infrastructure improvements at A40/B0422 Shores Green Junction in Witney.

On 15 July 2023, Oxfordshire County Council, in its role as County Planning Authority (“CPA”) granted planning permission for the following development:

The construction of two new west-facing slip roads at the Shores Green junction of the A40; an off-slip to allow eastbound vehicles to exit the A40 on to the B4022 towards Witney and an on-slip to allow westbound vehicles to enter the A40 from the B4022 at this junction. Two existing lay-bys to the west of the A40 overbridge will be removed to accommodate the construction of the slip roads.

Owing to the evolution of the scheme design, the Applicant seeks to amend approved drawings and thus has submitted this planning application pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition no. 1 attached to planning permission R3.0039/22.

In addition, modifications to the scheme design have resulted in a review of the Biodiversity Net Gain proposals and hence this Section 73 application also seeks to vary condition no. 18 attached to the aforementioned planning permission.

This application is supported by the following reports, which consider the acceptability of the proposed variations:

- Environmental Statement Addendum
- Transport Assessment Addendum
- Sustainability Assessment Addendum
- Biodiversity Net Gain Report (Rev 03)

Design with community in mind

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This application has been submitted via the Planning Portal under reference PP-12445142. As this is a Regulation 3 application made by OCC as Applicant to OCC as CPA, the requisite payment fee will be made via internal transfer.

Scheme Variations

There are a series of amendments proposed to the approved scheme proposals which are summarised as follows:

- A change to the type and extent of the path/facility for non-motorised users running parallel to the proposed A40 eastbound off-slip to the B4022;
- Additional landscaping to the east of the proposed on-slip to the A40 westbound;
- A highway boundary extension to the east of the proposed on-slip;
- Realignment of the drainage ditch by the proposed off-slip; and
- Two balancing ponds adjacent to the on-slip have been merged to form one balancing pond chamber.

The primary change which has necessitated the submission of this Section 73 application to seek formal planning permission for a 'minor material amendment' to the approved scheme relate to changes to the non-motorised path located on the north-west side of the off-slip.

It is proposed that the path to be used by cyclists and pedestrians as granted under the approved scheme will be re-purposed and extended to become a footway for pedestrians only which adjoins to the existing footpath 410/41/20 (Witney). The length of the proposed facility will also be extended approximately 200m in length along the full length of the off-slip up to the proposed attenuation pond and to the proposed highway boundary where it will connect with the remainder of footpath 410/41/20.

The change is proposed as the currently approved arrangement drawing would lead to cyclists not being able to continue their journey once they reach the existing footpath 410/41/20, 410/42/20 and 410/8/20 which are only suitable for, and designated for use by, pedestrians. Therefore, although the shared use facility provided a route suitable for cyclists, there is no onward connection beyond the tie-in point to the existing cycle facilities in the Cogges area of Witney to the west. This change in the designation of the facility from a shared-use path to a footway will ensure that when the scheme opens, it will integrate logically with the existing surrounding footpaths to which it will initially connect.

Although the proposed footway would be suitable for cyclists, there are no onward links to the west and north of the proposed footway and therefore no loss of connectivity for cyclists as a result of the proposed amendment. The 410/41/20 is a footway and the extension of the proposed footway to connect to this PRoW would therefore not create a new connection for cyclists.

In terms of amendments to the proposed scheme landscaping, as a result of stakeholder feedback, additional tree planting is now proposed relative to the amount currently approved. As shown within the enclosed revised landscape drawings, the additional planting to the south-east of the proposed westbound on-slip, is proposed to improve screening of the scheme from properties in High Cogges to the south-east.

Full details of the proposed scheme changes can be found in the enclosed Environmental Statement Addendum and Transport Assessment Addendum reports.

Amendments to Condition 1

The table below sets out the currently approved drawings that are listed under planning condition no .1 attached to planning permission R3.0039/22, and the proposed replacement scheme drawings which reflect the proposed scheme variations:

Currently Approved Drawing	Replacement Drawing
General Arrangement Plan (Sheet 1 of 3) 60611611-ACM-XX-XX-DR-HW-000109 (Rev: 10), dated 01/09/2022	General Arrangement Plan (Sheet 1 of 3) 60611611-ACM-XX-XX-DR-HW-000109 (Rev: 14), dated 26/07/2023
General Arrangement Plan (Sheet 2 of 3) 60611611-ACM-XX-XX-DR-HW-000110 (Rev: 10), dated 01/09/2022	General Arrangement Plan (Sheet 2 of 3) 60611611-ACM-XX-XX-DR-HW-000110 (Rev: 14), dated 26/07/2023
General Arrangement Plan (Sheet 3 of 3) 60611611-ACM-XX-XX-DR-HW-000111 (Rev: 10), dated 01/09/2022	General Arrangement Plan (Sheet 3 of 3) 60611611-ACM-XX-XX-DR-HW-000111 (Rev: 14), dated 26/07/2023
Landscaping Strategy (Sheet 1 of 3), 60611611-ACM-XX-XX-DR-LV-000001 (Rev: 8), dated 11/11/2022	Landscaping Strategy (Sheet 1 of 3), 60611611-ACM-XX-XX-DR-LV-000001 (Rev: 10), dated 25/07/2023
Landscaping Strategy (Sheet 2 of 3), 60611611-ACM-XX-XX-DR-LV-000002 (Rev: 8), dated 11/11/2022	Landscaping Strategy (Sheet 1 of 3), 60611611-ACM-XX-XX-DR-LV-000001 (Rev: 10), dated 25/07/2023
Landscaping Strategy (Sheet 3 of 3), 60611611-ACM-XX-XX-DR-LV-000003 (Rev: 8), dated 11/11/2022	Landscaping Strategy (Sheet 1 of 3), 60611611-ACM-XX-XX-DR-LV-000001 (Rev: 10), dated 25/07/2023
Long Sections (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-HW-000121 (Rev: 3), dated 10/03/2022	Long Sections (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-HW-000121 (Rev: 4), dated 08/09/2022
Cross Sections (Sheet 1 of 8) 60611611-ACM-XX-XX-DR-HW-000122 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 1 of 9) 60611611-ACM-XX-XX-DR-HW-000122 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 2 of 8) 60611611-ACM-XX-XX-DR-HW-000123 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 2 of 9) 60611611-ACM-XX-XX-DR-HW-000123 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 3 of 8) 60611611-ACM-XX-XX-DR-HW-000124 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 3 of 9) 60611611-ACM-XX-XX-DR-HW-000124 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 4 of 8) 60611611-ACM-XX-XX-DR-HW-000125 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 4 of 9) 60611611-ACM-XX-XX-DR-HW-000125 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 5 of 8) 60611611-ACM-XX-XX-DR-HW-000126 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 5 of 9) 60611611-ACM-XX-XX-DR-HW-000126 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 6 of 8) 60611611-ACM-XX-XX-DR-HW-000127 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 6 of 9) 60611611-ACM-XX-XX-DR-HW-000127 (Rev: 5), dated 30/03/2023
Cross Sections (Sheet 7 of 8) 60611611-ACM-XX-XX-DR-HW-000128 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 7 of 9) 60611611-ACM-XX-XX-DR-HW-000128 (Rev: 5), dated 30/03/2023

Cross Sections (Sheet 7 of 8) 60611611-ACM-XX-XX-DR-HW-000129 (Rev: 4), dated 08/09/2022	Cross Sections (Sheet 7 of 9) 60611611-ACM-XX-XX-DR-HW-000129 (Rev: 5), dated 30/03/2023
* <i>New sheet owing to extension of proposed path</i>	Cross Sections (Sheet 9 of 9) 60611611-ACM-XX-XX-DR-HW-000131 (Rev: 5), dated 30/03/2023
Street Lighting (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-LE-1303 (Rev: 1) 01/04/2002	Street Lighting (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-LE-1303 (Rev: 2) 26/07/2023
Street Contour (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-LE-1311 (Rev: 1) 01.04.2002	Street Contour (Sheet 1 of 1) 60611611-ACM-XX-XX-DR-LE-1311 (Rev: 2) 26/07/2023

An updated Biodiversity Net Gain Report has been produced to reflect the proposed landscaping enhancements. As a result, in addition to the above drawing changes, it is proposed that the ES Vol II Appendix 6-L: Biodiversity Net Gain Report (Rev.02) listed under condition no.1 is now superseded by Rev.03.

It is also proposed that associated variations to planning condition no.18 attached to planning permission R3.0039/22 are also made, which we go on to discuss below.

Amendment to Condition 18

Planning condition no.18, as currently worded states:

'No development shall commence unless and until, in combination with onsite measures as set out in the approved Revised Biodiversity Net Gain Report in order to deliver a minimum of 10% net gain in biodiversity units above the baseline:

- a) *A detailed management and monitoring plan covering a minimum of 30 years for delivery of 26.67 offsite biodiversity units at Foxburrow Wood as set out in the Revised Biodiversity Net Gain Report is submitted to and approved in writing by the County Planning Authority; and*
- b) *A certificate confirming the agreement of an Offsetting Provider approved by the County Planning Authority to deliver a Biodiversity Offsetting Scheme for the provision of 6.86 units of mixed plantation woodland has been submitted to and approved in writing by the County Planning Authority. The written approval of the County Planning Authority shall not be issued before the certificate has been issued by the Offsetting Provider. The details of the biodiversity enhancements shall meet the trading rule requirements as set out in the approved Revised Biodiversity Net Gain Report and shall be documented by the Offsetting Provider and issued to the County Planning Authority for their records.*

The approved plan shall thereafter be implemented in full.'

To reflect the updated Biodiversity Net Gain Report and to enable flexibility to reduce off-site requirements, this Section 73 application also proposes that planning condition no.18 is re-worded as follows:

'No development shall commence unless and until, in combination with onsite measures as set out in the approved Revised Biodiversity Net Gain Report in order to deliver a minimum of 10% net gain in biodiversity units above the baseline:

- a) *A detailed management and monitoring plan covering a minimum of 30 years for delivery of offsite biodiversity units at Foxburrow Wood to ensure delivery of a minimum of 10% net gain in biodiversity units is submitted to and approved in writing by the County Planning Authority; and*
- b) *A certificate confirming the agreement of an Offsetting Provider approved by the County Planning Authority to deliver a Biodiversity Offsetting Scheme for the provision of mixed plantation woodland in order to ensure the development meets trading rules has been submitted to and approved in writing by the County Planning Authority. The written approval of the County Planning Authority shall not be issued before the certificate has been issued by the Offsetting Provider. The details of the biodiversity enhancements shall meet the trading rule requirements as set out in the approved Revised Biodiversity Net Gain Report and shall be documented by the Offsetting Provider and issued to the County Planning Authority for their records.*

The approved plan shall thereafter be implemented in full.'

Further details of the rationale for this proposed variation are set out within the updated Biodiversity Net Gain Report, which is included as part of this application.

Planning Considerations

As we have explained above, this is a Section 73 planning application to amend planning condition nos.1 and 18 attached to permission R3.0039/22. As such, the principle of the proposed highways improvement scheme has been accepted by virtue of the extant planning permission.

The primary change which has necessitated the submission of this Section 73 application for a minor material amendment to the approved scheme relate to amendments to the designation and extension to the non motorised user path.

As the original planning permission was accompanied by an Environmental Statement (ES), the Applicant has produced an Addendum to the ES to assess if the previously established likely significant environmental effects within the ES materially differ or worsen as a result of the proposed scheme changes.

The ES Addendum report, which is included as part of this application, finds that given the relatively small scale nature of the proposed scheme amendments, there are no changes to any of the previously stated residual environmental effects as set out within the original ES. As such, the conclusions of the approved ES remain valid and the mitigation measures presented within it are deemed to be appropriate.

This current Section 73 planning application is also supported by an Addendum to the Transport Assessment (TA) which was submitted in support of original planning application. The original TA concluded that *'the scheme will have a positive impact on active travel with the proposed improvements to the existing pedestrian/cycle facilities as well as providing additional formal crossing points. These improvements will improve the quality, safety and journey time for both pedestrians and cyclists'*. The TA Addendum finds that this conclusion remains also valid following the proposed scheme changes.

Furthermore, a Sustainability Statement Addendum has also been prepared to support this current Section 73 planning application which concludes that the proposed scheme changes will not hinder sustainable development and the achievement of the sustainability principles as described in the Sustainability Statement, which supported the original planning application.

On the basis of the above, we conclude that the proposed scheme amendments are acceptable from a planning perspective.

Design and Access Considerations

The western end of the shared use facility approved within the original scheme connected to footpath 410/41/20 and then onto footpath 410/41/10. These are narrow, overgrown and unpaved footpaths which are currently not suitable for use by cyclists. Therefore, although the shared use facility provided short section of path suitable for use by cyclists, there are no onward connection for cyclists to the existing cycle facilities in the Cogges area of Witney. Similarly, footpaths 410/42/20 and 410/8/20, which connected to the shared use facility, do not currently provide onward links suitable for use by cyclists.

The footway proposed in the revised scheme will therefore initially be designated for pedestrians only and not cyclists. There are currently no onward cycle links to the west and north of the proposed footway and there is therefore no loss of connectivity for cyclists.

The changes have been proposed to provide flexibility and future proofing. The proposed footway facility will be 3 metres wide along its entirety to allow all or parts of it to be converted to a shared use (pedestrian and cyclist use) track in the future. The facility has therefore been designed to future-proof the scheme to enable later delivery of the Council's aspirations to provide a shared walking and cycling route through this area as set out in the Witney Local Cycling and Walking Implementation Plan (LCWIP) adopted in March 2023, and which also forms part of the developers' proposals for the adjacent East Witney Strategic Development Area (SDA) to the north-west.

The new footway will provide a high-quality link that maintains existing connections for people walking provided by the current Public Right of Way network and will provide a connection to the new shared use track proposed as part of the wider scheme along the B4022. It will also provide a connection for pedestrians between the southern boundary of the proposed East Witney SDA and the B4022.

The Applicant has discussed the scheme amendments with representatives from OCC's Public Rights of Way and Transport Development Control teams. Neither has raised any objections to the proposed scheme amendments.

Summary

This Section 73 application has been submitted to seek formal planning approval for a series of small scale amendments to highways infrastructure improvements at A40/B0422 Shores Green Junction, which were originally granted planning permission by the CPA in July 2023.

The primary change which has necessitated the submission of this Section 73 application for a minor material amendment to the approved scheme relate to changes to the non-motorised running parallel to the proposed A40 eastbound off-slip to the B4022. Notwithstanding the proposed amendment, there is not deemed to be any loss of connectivity for cyclists, as a result of the revision to the type and extent of the path/facility for non-motorised users.

Other scheme changes include additional landscape planting which is proposed to improve screening of the scheme from properties in High Cogges. Such revisions have necessitated an update to the Biodiversity Net Gain assessment which accompanied the original planning application. As such it is proposed the condition no.1 attached to R3.0039/22 is amended to regularise the amended scheme

drawings and condition no.18 is also amended to able flexibility for the provision of on-site biodiversity units.

We look to receiving formal acknowledgement of our submission in due course. If you require any further information then please do not hesitate to contact me.

Yours faithfully



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