

- Local Member(s) Councillor L Caborn – No comments received
(With brief comments, if appropriate)
- Other Elected Members
- Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)
- Chief Executive
- Legal I Marriott – comments incorporated
- Finance
- Other Chief Officers
- District Councils Warwick District Council – do not wish to comment on the proposals due to the use of specialist in-house experts
Stratford on Avon District Council –no objections
- Health Authority
- Police
- Other Bodies/Individuals Barford, Sherbourne and Wasperton Joint Parish Council
Councillor A Gordon } Comments received see paragraph 3.2
Councillor G Grima }

FINAL DECISION **NO/YES** (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee

Further Consultation

Regulatory Committee – 22nd December 2005

Discharge of Ecological and Landscape Conditions Relating to the Approved Barford By-pass

Report of the Strategic Director of Environment and Economy

Recommendation

That the ecological and landscaping details submitted in accordance with Conditions 13,14,15 and 16 imposed on planning permission reference no W1494/02CC111 be approved and the Strategic Director of Environment and Economy be authorised to approve the details submitted in accordance with Condition 12 if he is satisfied, after considering any objections, with the timetable remaining to be submitted.

1. Introduction

1.1 The submitted details relate to the discharge of Conditions 12, 13, 14, 15 and 16 attached to the planning permission, Reference No. W1494/02CC111, granted 3rd February 2003 for the construction of a 7.3m single carriageway road 2.1km long over widened at the southern and northern junctions to provide ghost islands for right turning traffic at the A429 west of Barford, from Wasperton Hill Farm access to Sherbourne Park access, Warwickshire. The verges are generally 3.5m wide, but over widened where necessary to provide visibility. The bypass requires the construction of a four span viaduct and series of flood culverts where it crosses the River Avon and the flood plain.

1.2 Condition No. 12 states that:-

“No development shall take place until a Nature Conservation Protection Plan for Construction has been submitted to and approved in writing by the County Planning Authority. The Plan shall include:-

- (a) An appropriate scale plan showing the various “Protection Zones” where the Environmental Statement refers to fencing and other protection methods of existing features. The plan should include any construction activities which are restricted and where protective measures will be installed or implemented. This plan to include restricted areas where site compounds, storage areas and so on are excluded;
- (b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction and post

construction, this should include the pollution/silt traps protecting the River Avon, location and construction/design details of outfalls and all other surface water drainage requirements such as the practices of following the Environment Agency's pollution prevention guidelines;

- (c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as bird nesting season March 31st to September 30th);
- (d) Persons responsible for:-
 - (i) Compliance with legal consents relating to nature conservation;
 - (ii) Compliance with planning conditions relating to nature conservation;
 - (iii) Installation of physical protection measures during construction;
 - (iv) Implementation of sensitive working practices during construction;
 - (v) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
 - (vi) Provision of training and information about the importance of "Protection Zones" to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the County Planning Authority."

1.3 Condition No.13 states that:-

"No development shall take place until a Nature Conservation Habitat Creation Plan for the construction of the flood compensation area, balancing ponds and drainage lagoons and all other aspects of the proposed Sustainable Drainage System (SuDS) and has been submitted to and approved in writing by the planning authority. The plan shall include:-

1. An appropriate scale plan showing the location of these features as well as construction and design details, profiles and cross sections;
2. Details to include habitat creation plans and;
 - (i) Purpose, aims and objectives for the scheme;
 - (ii) A review of the site's ecological potential and constraints;
 - (iii) Description of target habitats and ranges of species appropriate to the site;
 - (iv) Selection of appropriate strategies for creating target habitats or introducing/encouraging target species;
 - (v) Selection of specific techniques and practices for establishing vegetation;
 - (vi) Sources of habitat materials (e.g. plant stock) or species individuals;
 - (vii) Method Statement for site preparation and establishment of target features;
 - (viii) Extent and location of proposed works;
 - (ix) Aftercare and long term management;
 - (x) The personnel of responsible for work;

- (xi) Timing of the works;
- (xii) Monitoring;
- (xiii) Disposal of wastes arising from the works.

All habitat creation works shall be carried out with the approved details, unless otherwise approved in writing by the planning authority. The works shall be carried in accordance with a programme to be agreed by the planning.”

1.4 Condition 14 states that:-

“No development shall take place until full details of a Protected Species Contingency Plan has been submitted to and approved in writing by the county planning authority. The plan shall include:-

- (a) Additional surveys at agreed periods during appropriate times of year by an agreed expert – in each year that operations are planned to occur – to determine the possible presence, change of location of particular protected species previously covered in the Environmental Statement or specified by the planning authority.
- (b) Details of appropriate mitigation measures and contingency plans should such a protected species be found to be.

The surveys, mitigation and contingency measures shall be implemented in accordance with the approved plans, unless otherwise approved in writing by the planning authority.”

1.5 Condition 15 states that:-

“No development shall take place until a mitigation scheme covering all aspects of planting, landscaping and other measures outlined in the Environment Statement Part 4, Chapter 6 on Ecology and Nature Conservation, including table 9, of has been submitted to and approved in writing by the planning authority, the plan shall include:-

1. Purpose, aims and objectives for the scheme;
2. A review of the site’s ecological potential and any constraints;
3. Description of target habitats and range of species appropriate to the site;
4. Selection of appropriate strategies for creating target habitats or introducing/encouraging target species;
5. Selection of specific techniques and practices for establishing vegetation;
6. Sources of habitat materials (e.g. plant stock) or species individuals;
7. Method statement for site preparation and establishment of target features;

8. Extent and location of proposed works;
9. Aftercare and long term management;
10. The personnel responsible for the work;
11. Timings of works;
12. Monitoring;
13. Disposal of wastes arising from the works.

All works shall be carried out with the approved details, unless otherwise approved in writing by the planning authority. The works shall be carried out in accordance with a programme to be agreed by the planning authority.”

1.6 Condition No.16 states that:-

“No development shall take place until a detailed landscaping scheme including replacement and mitigation planting together with a timetable for planting and a maintenance scheme have been submitted to and approved in writing by the County Planning Authority. The scheme shall address planting on land both within the control of the County Council and on other land where planting can take place with the agreement of landowners. Following approval the scheme shall be implemented accordingly.”

2. Consultations

- 2.1 **Warwick District Council** – No comments received.
- 2.2 **Stratford on Avon District Council** – No objection.
- 2.3 **Barford, Sherbourne and Wasperton Joint Parish Council** – Comments received from Parish Councillors Antoinette Gordon and George Grima.
- 2.4 **Councillor L Caborn** – No comments received.

3. Representations

- 3.1 A letter of representation from the Campaign to Protect Rural England removing their previous objections. Noting that:-
 - (i) Within the constraints which now exist, we are satisfied that all that can be done to minimise the adverse effects of the road, is now being done;
 - (ii) Given time planting will, no doubt, produce a screen and the occasional gaps will continue to give visual access to the countryside;
 - (iii) “The ongoing maintenance is very important and we are pleased that this has been restored to five years”;

- (iv) “We are pleased that you will be able to continue beyond that time with the normal support as you have on the Wellesbourne and Stratford projects.”

3.2 Comments from Parish Councillors Gordon and Grima regarding:-

- (i) The plans show the scheme in isolation and do not illustrate the affected properties and settlements;
- (ii) Tree planting is insufficient and of poor quality. A linear woodland is required to provide visual protection and a wildlife habitat. Tree planting should incorporate deciduous and coniferous species. Wildflower planting should also be carried out;
- (iii) A comprehensive wildlife survey needs to be undertaken , this should be undertaken with wider consultation and development should be delayed until the survey and the proposals have been satisfactorily completed;
- (iv) Cycleways and footways routings are disjointed. These need to be revised with local public consultation;
- (v) The purpose and form of the temporary fencing is unclear. More details and discussion appear necessary;
- (vi) The ghost islands are not shown as the blister islands as proposed at the public inquiry and will have a minimal impact on highways safety at such dangerous junctions.

4. Observations

- 4.1 The representations from the Parish Council mean that the discharge of the above mentioned conditions cannot be dealt with under delegated powers and therefore must be referred to the Regulatory Committee. The comments raised by the parish councillors are dealt with individually below:-
- 4.2 The applicant has provided a comprehensive landscaping scheme for the approved road scheme and the related flood compensation area. It incorporates grass and wildflower planting, hedgerow planting, enhanced village gateway planting as well as some compensatory tree and bulb planting at Sherbourne estate.
- 4.3 The character of the area, in landscape terms, is open farmland with sparse hedgerows demarking field boundaries. In addition there is some riparian vegetation adjacent to the river channel. Part of the scheme which lies to the north of the River Avon lies within a Special Landscape Area as identified in the adopted Warwick District Local Plan.
- 4.4 The area is largely characterised as ‘Terraced Farmlands’ in the County Council’s Warwickshire Landscapes Guidelines. The Guidelines describe the open nature of the landscape, resulting from intense arable farming in more detail and notes that “tree cover is generally rather sparse although individual

wooded streamlines or isolated mature trees are prominent landscaping features” and “woodlands of any size are uncommon on the terraces themselves”. In order, to retain the character of surrounding landscape, as much as possible, any landscaping scheme should seek to maintain this open character and mitigate against the effects of the road and bridge.

4.5 It has been suggested by Parish Council Members that a linear woodland should be created composed of a mixture of species. Such a strong linear feature would not be appropriate as it would form an alien feature within this particular area, where linear features take the form of hedgerows as opposed to more substantial woodland areas.

4.6 The scheme has been designed with breaks in the tree planting alongside the road, to enable more distant views onto land on the far side of the road from the Barford side. This approach was stated at the public inquiry and was justified in the statement of case as follows:-

“Planting the whole route would curtail views that would be enjoyed by users of the proposed bypass. It would also emphasise the linearity of the route, rather than helping it to fit into the pattern of the landscape. Planting has therefore been designed to break up views, build on the pattern of the existing hedges and shelterbelts so as to help restore the pattern. Moreover it has been designed to break up the line of the mound and to reduce the visual impact of high-sided vehicles without cutting off Barford entirely from views of landscape to the west. It must be noted that unlike earthworks, which have an immediate effect, planting takes time to become effective, and it is estimated that it would take 15 years, after the opening of the scheme, to become effective”.

4.7 The need to seed wildflowers has also been raised. A wildflower mix will be integrated into the grass seeding on the road side, as outlined in Appendix 30/70. As such this issue has already been addressed within the landscaping scheme.

4.8 The species used have been based upon native species that occur within the vicinity and have been suggested in line with the Warwickshire Landscape’s Guidelines. With regards to the tree planting schedule, native younger whip specimens are dominant, as these will ultimately result in better growth and reduced failure rates. Thus ensuring a better established and effective soft landscaping screen in the long term. Using other non-native species, such as evergreens, would be inappropriate in this locality.

4.9 With regards to the village side planting and it’s contribution towards screening the approved road. A detailed assessment of the visual intrusion associated with the overall scheme was conducted as part of the Environmental Assessment and is shown in Drawing No. H/A429-43/318 of the Assessment. This drawing already shows the details requested by Parish Members.

4.10 The landscaping scheme has been designed to result in the greatest degree of screening in areas that have the greatest adverse impact on adjacent properties.

This approach produced the indicative landscaping drawing within the Environmental Statement on which the proposed scheme has been based.

Ecological Conditions (Condition 12, 13, 14 and 15)

- 4.11 Four Ecological conditions were attached to the planning permission as a result of the information contained within the submitted Environmental Statement. These conditions concern a Nature Conservation Protection Plan, a Nature Conservation Habitat Creation Plan relating to the flood compensation area, balancing ponds and drainage lagoons, a Protected Species Contingency Plan and a mitigation scheme.
- 4.12 In relation to the Parish Members' concerns regarding the need for a comprehensive wildlife assessment, such a statement has been submitted by Cresswell Associates, who are fully qualified specialist environmental consultants. This statement has cascaded down from detailed investigations and findings presented as part of the Environmental Statement. The County Ecologist has also been consulted on the issue with a view to the discharge of conditions 12, 13, 14 and 15 and is fully satisfied with the information and mitigation measures proposed.
- 4.13 The County Ecologist is also fully satisfied with the details submitted and the previous surveys conducted. Effectively, the process has been carried out and assessed by at least two competent, fully qualified professionals. Therefore, the information is considered to be adequate to discharge the relevant conditions.
- 4.14 At this stage, Condition No. 12 can not be fully discharged as a timetable showing the phasing of construction is required. This timetable will be submitted within the next few weeks as the appointment of the principal contractor is now imminent. In view of this, it is requested that the power to fully discharge this particular condition be delegated to officers upon receipt of such a timetable.

Temporary Fencing (Condition 12 and 16)

- 4.15 Temporary fencing locations are shown on the plans illustrating accommodation works, fencing and wildlife fencing/tunnels. These plans illustrate the location of two types of temporary fencing:- (a) chestnut pale fencing as ecological protection measures and:- (b) temporary fencing used to define working areas. The chestnut pale fencing will be used to protect adjacent habitats from personnel and machinery.
- 4.16 Further details regarding the chestnut pale fencing is given within the Ecological Mitigation Report. Such fencing are erected to protect retained vegetation at a distance of 2 metres beyond the outer edge of tree canopies or 1 metre in the case of shrubs. Such fencing will be in accordance with BS5837, the British Standard for tree protection during construction.
- 4.17 Fencing used to define working areas will be used to prevent personnel and machinery from straying onto adjacent private land. This will complement existing permanent fencing defining the extent of Compulsory Purchase Order land.

- 4.18 Both types of fencing are associated with construction phases of development. Fencing would be erected at the commencement of the construction phase until Practical Completion or until access is needed to complete adjacent works. As such fencing is a necessity of such development there is no need for further consultation on it's design and as such the discharge of Landscaping conditions should not be delayed further because of this.

Issues raised by Parish Councillors that do not relate to the discharge of conditions:-

Cycleways

- 4.19 The submitted landscaping plans illustrate cycleways and footways. Parish Members have stated that the location of footways and cycleways as shown are in a "disjointed manner, unconnected to existing routes and roads, indicating an unsatisfactory lack of consultation with local issues".
- 4.20 The cycleway routes are consistent with the plans submitted as part of the application. Cycleways feed into the existing Wellesbourne Road, thus directing cycle traffic through the quieter traffic environment within Barford village. These routes were considered fully at the Public Inquiry into the Compulsory Purchase Order for the By-pass in September 2003.
- 4.21 The plans also show a footpath running from Westham Lane south to a road crossing refuge. This links two existing routes and was included at the request of the Inspector at the Public Inquiry into the Compulsory Purchase Order. This followed a request from local residents for a safe means of crossing the highway from Westham Lane.
- 4.22 In addition, it should be noted that the routing of Footways and Cycleways is not covered by a particular planning condition, and they do not relate to the discharge of the particular conditions with which this report is concerned.

Ghost Islands

- 4.23 Parish Members also raise questions regarding the road layout and the design of junctions and lanes, and the fact that these have changed since the Public Inquiry into the Compulsory Purchase Order. The plans submitted for the discharge of the relevant conditions relate to those particular issues only, i.e. landscaping and ecological mitigation. Therefore, the layout features within the carriageway have been omitted for clarity, and will be unaffected by these drawings. As such further public consultation is not required.

5. Planning Policies

- 5.1 The adopted local plan, Warwick District Local Plan adopted April 1995, includes policies relating to the landscaping and ecological conditions. Policy ENV27 – Nature Conservation seeks to retain natural features and protect them during construction, where there is a loss of habitats or features then there should be

replacement habitats or features and creative conservation measures should be incorporated wherever possible.

- 5.2 Policies relevant to landscaping are as follows Policy ENV3 – Development Principles states that all development proposals should “have regard to existing landscape features and include measures for their retention, maintenance and enhancement.” With Policy C1 – Countryside General Policy stating that “*the appearance and character of the rural landscape will be conserved and enhanced.*”
- 5.3 Whilst Policy C8 – Special Landscape Areas and Countryside Management specifically addresses Special Landscape Areas. Part of the scheme is covered by this designation. The policy states that “proposals will be required to conserve and where possible enhance the special character of these areas.”
- 5.4 Both the Ecological and Landscaping schemes are comprehensive and address a wide range of issues. The Ecological Plans aim to conserve existing species and enhance bio-diversity through the introduction of new habitats and species, such as flood compensation wetlands and wildflower verges. As such the proposals are in accordance with Policy ENV27.
- 5.5 The Landscaping scheme has been designed to offer a fair degree of screening, whilst maintaining some openness. Openness being a major character of the area. Compensatory Planting is also proposed within the Special Landscape Area. Therefore the scheme meets the spirit of the Landscape Policies within the confines of the proposed scheme and the land available.

6. Conclusions

- 6.1 The scheme for the construction of the By-pass was approved 3rd February 2003. This report deals with the discharge of Landscaping and Ecological conditions only. The details submitted are a result of detailed work that has filtered down from a comprehensive Environmental Statement and ensure adequate mitigation measures within the confines of the approved scheme and the purchased land.

7. Environmental Implications

- 7.1 As a result of the proposed schemes the environmental impacts associated with the approved road would be significantly reduced.

JOHN DEEGAN
Strategic Director of Environment and Economy
Shire Hall
Warwick

9th December 2005