



CONFIDENTIAL – NOT FOR FORWARD CIRCULATION

5. Safeguarding Update

Crossrail 2 Programme Board

12 April 2018



Summary

In January 2018 Crossrail 2 Programme Board received a paper on Safeguarding which summarised the position and set out a number of options for how the project might limit the risk of conflicting development outside the 2015 Limits of Safeguarding; the objective being to protect the future delivery of the Case Scheme Option and minimise potential future costs to the project.

As requested by Ministers, the project is taking an active approach to managing potential conflicts through its collaborative relationships with local authorities. However, this paper summarises a number of recent decisions that reflect a growing concern from the Integrated Project Team (IPT) that, if challenged, there is little weight the decision maker(s) can place on the Crossrail 2 representations in the formal planning decision making process in sections where safeguarding is not currently in place or is out of date.

Recent Decisions

1. Alma Estate – London Borough of Enfield.

Crossrail 2 would serve a number of stations, including Ponders End, between Tottenham Hale and Broxbourne on the West Anglia Main Line (WAML) corridor. Work carried out by Crossrail 2 identified land outside the existing Network Rail corridor and not Safeguarded in the 2015 Safeguarding Directions. This land would be required to deliver the Crossrail 2 CSO.

It was recognised that the Crossrail 2 proposals would conflict with the Council's Alma Estate Regeneration plans, which had been granted outline planning permission in 2015 but were still subject to detail approval. In discussion with officers at London Borough of Enfield a site on the Alma Estate (referred to as 2A(i)) was identified as a potential future Crossrail 2 worksite and on this basis designs were worked up for a new Crossrail 2 station at Ponders End. In December 2017 TfL were made aware of the Boroughs intention to take forward proposals for the re-development of site 2A(i). TfL made representation to the borough advising that the proposals would conflict with the future deliverability of Crossrail 2, the works needed at Ponders End and for additional tracking, the station and associated rail infrastructure requirements. TfL requested further discussion with the applicant / Council in an effort to reach a mutually acceptable way forward.

The Council's planning officer took two applications to their Planning Committee on 20th February 2018. Both reported the Crossrail 2 representations. The first report advised Members that they were entitled to give the Crossrail 2 representations no weight in their decision making process in respect of the approval of details as the outline planning permission had previously been granted. This application was approved by the Committee.



The second application the Council considered was a S.73 application to amend the original grant of planning permission. Their report recognised the Crossrail 2 objection however, notwithstanding the fact that where a s.73 application is granted, the effect is the issue of a new planning permission the Council were of the view that:

“The Crossrail 2 rail scheme is at an early stage and there is no certainty that the land will be required or indeed is needed in association with the scheme and the land is not subject to any Safeguarding Direction”. The Council were of the view that “more weight needed to be given to the delivery of the Alma Scheme than preserving the Phase 2A(i) site just in case it is required for future Crossrail 2 rail development” . The s.73 application was approved and a new Grant of Planning Permission issued for the development. “

2. Consequences of this decision for Crossrail 2

Given the constraints around Ponders End Station and the development that now has permission the opportunity to secure alternative suitable worksites within the immediate area of the station is limited. The experience of Crossrail 1 when working within a constrained worksite suggests this will add both build time and cost to the project and may now only deliver a sub-optimal solution at the current Ponders End site. Options may therefore require alternative station location to be explored however, the full implications for the scheme will require further assessment and review.

3. Cheshunt Lakeside – Broxbourne Borough Council

Crossrail 2 proposals will increase the number of trains serving the line between Broxbourne and Waltham Cross resulting in the barriers at the Windmill Lane level crossing in Cheshunt being closed almost permanently during train operating hours. This will effectively cut off the area to the east of the railway. An alternative access across the railway is needed and had been discussed with officers of the Council and a scheme had been worked up which required land on what is now referred to as the Cheshunt Lakeside development site. The development's initial proposals had reflected the discussions between the council and Crossrail 2 however, the latest proposals, as published on the Cheshunt Lakeside web site, no longer provide for the Crossrail 2 level crossing solution and are proposing a mixed use residential led re-development of some 300 units across the whole of the site.

The Cheshunt Lakeside site is outside the 2015 Limits of Safeguarding and it is understood that the Council, whilst still recognising the benefits that the future delivery of Crossrail 2 will bring, have indicated that in the absence of any Safeguarding Directions an alternative solution will now need to be explored.



4. Consequences of this decision for Crossrail 2

A solution for the Windmill Lane level crossing will still need to be found although the alternatives are however as yet not known. Crossrail 2 will need to explore possible options with Broxbourne Council if the project is to avoid directly conflicting with the Council's aspirations for Cheshunt Lakeside. There has already been a cost to the project as the scheme design work done to date is unlikely to be taken forward.

5. 2 Merton Hall Road – London Borough of Merton

In 2016 London Borough of Merton notified TfL of an application for planning permission for the demolition of an existing garage & proposed new build dwelling at 2 Merton Hall Road, Wimbledon Chase, London, SW19 3PP.

TfL advised the Local Planning Authority (LPA) that the site is adjacent to but outside the 2015 Limits of Safeguarding but the current scheme design indicated that the land that would be required for the future delivery of Crossrail 2. The LPA, refused the application on two grounds: (i) design and (ii) conflict with Crossrail 2

The applicant appealed the Council's decision. The case was heard before an Inspector at an informal hearing on 20th February 2017. TfL appeared at the hearing at the request of the Inspectorate and to support the Council's decision.

Prior to the hearing the appellant tabled revised plans and the Inspector heard from the LPA that these amended plans overcame the Council's design reason for refusal. It was agreed that the revised plans were for the Inspector to consider.

The Inspector, acknowledged that TfL / Crossrail 2 had, since the 2015 Safeguarding Directions came into effect, undertaken further engineering and design work which indicated additional land outside the Limits of Safeguarding was required for the future delivery of Crossrail 2. However, the Inspector noted that this was an unpublished document and he considered it had no formal status. He therefore attached limited weight to the Crossrail 2 representation which was also influenced by the fact that the revised scheme is not currently in the public domain. He also noted there is an established procedure for safeguarding land for major transport projects and this site is not currently within the safeguarded area. The appeal was therefore allowed and planning permission is granted for the development.

A separate application for costs was made by the appellant. The costs application was refused. In arriving at this decision the Inspector was satisfied that TfL did not act unreasonably in providing this advice to the Council. Moreover, as TfL are the public body with a responsibility



for delivering Crossrail 2, the Council did not act unreasonably in attaching significant weight to TfL's advice.

6. Consequences for Crossrail 2

The Inspectors review of this case does confirm that TfL / Crossrail 2 is not acting unreasonably in making representations on applications for planning permission that conflict with the CSO and outside the 2015 Limits of Safeguarding. There have been a limited number of cases where this has influenced a developer's scheme. However, where the developer wishes to pursue the scheme as submitted and the Local Planning Authority is of the view that there are no other planning objections planning permission should be granted. In the 2 Merton Hall Road case if the CSO is to be delivered it will require the future purchase of this site. The planning permission has added value and therefore additional cost of any future purchase to the Crossrail 2 project which will be further and, if built out, add one property to the number of residential properties the project will be required to take and the additional property compensation payment.

7. Comment

Whilst each and every planning application must be treated on its merits, the approach taken by Enfield in respect of the Alma Estate, the Inspector's decision on 2 Merton Hall Road and Broxbourne's emerging policy approach demonstrates that if TfL / Crossrail 2 highlight a conflicting development concern for those sites that are outside the 2015 Limits of Safeguarding *and* where the evolving Crossrail 2 scheme designs are not in the public domain any representations will be of little weight in the planning decision making process. The project therefore currently relies on a voluntary approach from developers and councils to protecting the CSO.

As reported previously, there are some 30 known sites where the Crossrail 2 project are aware of potential conflicting development on sites that are likely to be required but are not safeguarded. Given the current experience to date it has not been possible to predict where the next site will come forward and whether these sites will come forward before new Directions are in place. However, in ongoing discussion with Local Planning Authorities (and in some cases directly with developers) it suggests some 18 or so of these sites, in addition to the three above, either have current developer interest or are policy initiatives that boroughs could bring forward in the next twelve months or so.

It is the view of the IPT that there is an ongoing risk to the delivery of the scheme whilst the route is not protected through Safeguarding. This is likely to result in additional time and cost delays to scheme delivery alongside reputational damage for all parties if more sites come forward.



As the analysis previously submitted to Programme Board (January 2018) makes clear, no safeguarding option is entirely straightforward and the costs, benefits and risks of each needs to be weighed carefully. From the perspective of a programme delivering the CSO, an update of Directions to cover the full CSO route would be the preferred option to protect the proposed scheme from conflicting development is an essential building block on which to base the scheme design and reduces the risk of increased cost exposure (potentially c£2bn if all the potentially conflicting development sites identified to date were built out) at a time when an affordability review of the scheme is being carried out .. However, from a Government perspective, that option would go ahead of the level of commitment to the existing route and risks prejudging the outcome of the independent review.

Ministers have indicated that any update to the Crossrail 2 Safeguarding Directions would also require an agreement on funding of successful blight claims, and capex provision for this, before any change could be made. However, the risk of blight claims being made already exists under the existing Safeguarding Directions and looking ahead this issue must be resolved in any case and alongside the likely increase in cost if development takes place on “unsafeguarded sites”.

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