Didcot Garden Town HIF 1 Scheme:
Planning Application R3.0138/21

Critique of the Environmental Statement

Consultation response, by Planning Oxfordshire's Environment and Transport Sustainably (POETS)

February 2022

POETS (Planning Oxfordshire's Environment and Transport Sustainably) is a group of senior planning, environment and transport professionals and academics focussed primarily on planning and transport in Oxfordshire.

For more information go to *www.poetsplanningoxon.uk*

Summary of Key Points

1. POETS has already made a formal submission in relation to this planning application. See https://www.poetsplanningoxon.uk/poets-didcot-garden-town-HIF1-scheme-planning-application-response-190122.pdf. This paper focuses on the Environmental Statement.
2. The Environmental Statement which has been produced in support of the application is significantly deficient in the following areas:
   a) The study area is too small and ignores significant localities which will be impacted;
   b) The analysis fails to assess the impact of the developments which the package of measures in the application is designed to facilitate and with which it has a symbiotic relationship;
   c) Too often the document claims that there would be "No significant adverse effects" which simply does not follow from the analyses which precede it;
   d) The Statement refers frequently to securing mitigation measures, without demonstrating what these might be or how effective they might be. The Statement also fails to include a number of required elements, including an Archaeological Assessment, Dust Management Plan and Construction Environment Management Plans;
   e) Alternative packages of measures have not been assessed properly to the degree required by the legislation;
   f) The county council has failed to demonstrate that those within the organisation responsible for determining this application are totally separated from those who have prepared and submitted the application – a fundamental requirement of the legislation.
3. As a consequence of all these failings, the Environmental Statement needs to be withdrawn and resubmitted and the planning application cannot be determined until this has been undertaken. To do otherwise would leave the county council open to legal challenge.

Detail Points

4. The study area is inadequate because the Scheme is bound to affect two important locations which are not assessed. These are Abingdon, about 2km west of the proposed Culham Roundabout on the A415, and the Golden Balls Roundabout on the A4074 Oxford – Crowmarsh Gifford road, which is the subject of a separate proposal by OCC. These omissions, particularly of Abingdon, render the Assessment implausible. Traffic between Culham and Abingdon, the A34, the west and north has no available alternative route.
5. The A415 is already heavily loaded and congested, crosses Abingdon Bridge (scheduled as an Ancient Monument) and goes through Abingdon town centre and its conservation area (containing many listed buildings) where air quality issues already pose significant harm to human health. To fail to assess the effects of additional generated traffic is irresponsible and unacceptable.

6. The Environmental Statement (ES) assesses the effect of road traffic growth on the route itself but not on that arising from the development for which the Scheme has been designed and for which it is funded. The symbiotic functional relationship between the road and the housing development it enables and which it is designed to serve means that all the effects on the environment of both the road scheme and the related development must be considered for the ES to have any validity.
7. The failure to do so appears to be contrary to the 2017 Environmental Assessment Regulations and suggests the ES as it stands is an invalid exercise. It also calls into question the lawfulness of both the ES itself and any future planning permission which relies on it. This could lay the planning authority open to an application for judicial review.
8. Most of the Chapters of the ES, including that on Climate, conclude there would be “No significant adverse effects” as a result of the Scheme and, in many cases, the conclusions simply do not follow from the summaries of both construction and operational effects in those Chapters. This is an almost unbelievable situation for a significant road scheme and suggests a lack of objectivity in those who produced the report. This, if confirmed, would be contrary to the letter as well as the spirit of the 2017 Regulations.
9. Many of the Chapters in the ES conclude that any significant adverse environmental effects of the Scheme (such as Dust and Construction Management Plans) can be overcome by securing mitigation via conditions on a permission for a scheme. But mitigation is not a term used in the governing EU Directives on Environmental Assessments, and Court judgments have held that a Local Planning Authority (LPA) must be sure, at the time of granting permission, that any conditions will secure (with reasonable scientific certainty) the proposed mitigation. Unless they are sure, the LPA must refuse the application.
10. Yet there are failures to submit an Archaeological Assessment Report, a Dust Management Plan and several Construction Environment Management Plans which are left to be considered by the planning application via the imposition of conditions. In the absence of such information in these cases, it is therefore uncertain whether mitigation could be secured through conditions. The omissions of means to ensure the avoidance of harm to the environment and human health would thus make the ES invalid and any related permission could be open to judicial review.
11. Alternatives to the Scheme are required to be considered in an EA, but the language and approach of the ES is heavily skewed to favour a roads-based outcome from the outset. Inadequate consideration is given to active travel and no consideration at all to light rail/tram/rapid transit options which are widely employed in major housing extensions in Germany, Holland and Sweden for example. This failing has been highlighted by the report from Transport for New Homes, a Community Interest Company, in its latest report, “Building Car Dependency” (see https://www.transportfornewhomes.org.uk/wp-content/uploads/2022/02/Building-Car-Dependency-2022.pdf?utm_source=TfNH_website&utm_medium=website_pdf&utm_campaign=report_launch). Of direct relevance to the Didcot Scheme, this report (page 14) says: -

> *"At Great Western Park, buses took a relatively short time to go to the railway station. However, travel to the large number of new hi-tech and science parks in the Greater Oxford area was often less direct. With the fast-expanding Didcot Garden Town and other towns around Oxford, it was obvious from our visits that the whole Abingdon, Didcot and Oxford area itself needs a much more coherent urban and suburban transport network".*

12. The Introduction to the Non-Technical Summary appears to prejudge the outcome of the ES, influencing the minds of non-professional readers unless they are determined to read and take an independent and objective approach to the evidence. This is a serious deficiency in a document which the 2017 Regulations require to be objective in order to inform the general public, and especially so where the Scheme is being promoted by the County Council.

13. The Regulations require that where a body responsible for authorising the proposed development subject of an ES is part of the same organisation as the promoting authority, the authority – in this case Oxfordshire County Council - must ensure that it has effective measures to separate those responsible for deciding whether to grant planning permission from its role as highway authority and promoting authority. This must not only be done, but be seen to be done and, by referring throughout the ES only to "the County Council" and not to its separate functions, the ES does not demonstrate the functional separation of highway and planning authority. This is exacerbated by the lack of objective language in the ES, which to the ordinary person would seem to be leading to an expectation of planning permission being granted. The ES should be considered as if it accompanied an application by a private developer, and that nothing any other part of the County Council may have done should have any bearing on the planning merits of the Scheme.

Conclusions

14. In view of these serious flaws in the ES as it stands, the planning authority should require that a new ES is prepared to address these errors and preferably commissioned from different consultants. Until then it would not be appropriate for any related planning application to be granted permission.