



**CABINET**

**12 JULY 2016**

**CORPORATE DIRECTOR FOR PLACE COMMISSIONING: TONY CIABURRO**

**CABINET MEMBER WITH RESPONSIBILITY FOR TRANSPORT, HIGHWAYS AND ENVIRONMENT: COUNCILLOR IAN MORRIS**

<b>Subject:</b>	HS2 – Qualifying Authority and Delegated Powers
<b>Recommendations:</b>	<p>That Cabinet agree:</p> <ol style="list-style-type: none"><li>1. That the County Council becomes a Qualifying Authority in relation to the High Speed Rail (London – West Midlands) Bill currently before Parliament;</li><li>2. That the Corporate Director for Place Commissioning be delegated to sign the Planning Memorandum and to take all other steps they think fit in order to carry the foregoing Resolution into effect;</li><li>3. That the County Council enter into the Service Level Agreement on terms and conditions acceptable to the Corporate Director for Place Commissioning;</li><li>4. That upon the High Speed Rail (London – West Midlands) Bill receiving Royal Assent, delegated authority be given:<ol style="list-style-type: none"><li>a. For the Development Control Committee, subject to the delegations of the Assistant Director Environment, Planning and Transport, to issue consents and approvals in exercise of the County Council’s functions within the consequent Act of Parliament;</li><li>b. For the Assistant Director Environment, Planning and Transport to issue consents and approvals in exercise of the County Council’s functions within the consequent Act of Parliament, except where the Assistant Director Environment, Planning and Transport considers the application should be assessed by the Development Control Committee or be referred to the Committee for determination;</li></ol>and that these delegated powers be included in the County Council’s scheme of delegation at the next appropriate revision following Royal Assent</li></ol>

**1. Purpose of Report**

1.1 This report updates Cabinet on progress with HS2 since the last report in March 2014 and seeks approval for the County Council to becoming a Qualifying Authority under the terms of the HS2 Planning Memorandum (thereby gaining additional approval powers) and to agree delegated powers for making decisions once the High Speed Rail (London – West Midlands) Bill is passed into law.

## 2. How this decision contributes to the Council Plan

The Council's vision is to make Northamptonshire a great place to live and work. This is achieved through increasing the wellbeing of your county's communities and/or safeguarding the county's communities.

This initiative specifically delivers increased wellbeing and/or safeguarding by ensuring that:

- Communities thrive in a pleasant and resilient environment, with robust transport and communications infrastructure.
- Resources are utilised effectively and efficiently, in coordination with partners and providers.

## 3. Background

3.1 High Speed Two (HS2) is the government's proposal for a new high-speed rail line intended to tackle capacity issues on the existing rail network. Phase 1 runs from London to the West Midlands, passing through Northamptonshire between Brackley and Upper Boddington and subject to approval by Parliament later this year is expected to open in 2026. Further phases are expected to extend the line to Manchester and Leeds by 2033.

3.2 As a project of national significance, the Government is seeking powers to build HS2 through the Parliamentary Hybrid Bill procedure. Hybrid Bills contain elements of both Private Bill procedure (to build the railway) and Public Bill procedure (to vary existing legislation such as the County Council's highway powers). Like any other Bill, it has to be considered by both House of Parliament.

3.3 The Bill received its first reading in the House of Commons on 25<sup>th</sup> November 2013. Following second reading, nearly 1,600 petitions against the Bill were heard by a Select Committee which sat between April 2014 and February 2016. During this period the promoters deposited five Additional Provisions containing amendments to the Bill as originally published. Report stage and Third Sitting on the Commons took place on 23 March 2016.

3.4 First Reading in the House of Lords took place on 23 March 2016, and a petitioning period ran from 24 March to 18 April 2016 and 820 petitions have been accepted. Following Second Reading on 14 April, these petitions will now be considered by a Select Committee of the House of Lords.

3.5 Assuming successful progress through the House of Lords, it is assumed that the Bill will receive Royal Assent by the end of 2016, allowing construction to commence in 2017.

## 4. The County Council's Petition to the House of Commons

4.1 Both Cabinet and full Council have considered a number of reports relating to HS2 since 2010. The last report (to both Cabinet and full Council) in March 2014 sought approval (as required by the Local Government Act 1973) to petition Parliament with regards to the significant concerns that the published proposals created in Northamptonshire.

4.2 Following approval of this report, a Petition was submitted to the House of Commons outlining the significant concerns of the County Council with regards to a range of issues including:

- **Construction traffic** – ensuring that the roads to be used for construction traffic are suitable for the volumes and type of traffic proposed, that any necessary strengthening or repairs to the road are carried out expeditiously and without cost to the County Council;
- **Permanent and temporary road closures** – that proposed road diversions are suitable, and that alternative routes are not closed at the same time; that the extent of any stopping up is appropriate, and that suitable signing and turning heads are provided; and specifically to oppose the permanent closure of the Culworth Road, Chipping Warden.
- **A361 Chipping Warden Relief Road** – In respect of the impacts of construction traffic and proposed permanent and temporary road closures on the village of Chipping Warden, and particularly the Primary School, to press for HS2 Limited to fund a relief road for Chipping Warden.
- **Rights of Way** – ensuring that permanent and temporary diversions of Rights of Way are suitable, and do not compromise the integrity of the Rights of Way network.
- **Highway powers** – ensuring that the statutory powers of the County Council (as amended by the Bill) are sufficient to ensure that the operation of the highway network and the interests of local communities in respect of those highways are not comprised more than is necessary to ensure the construction and operation of the proposed scheme.
- **Railway issues** – ensuring that the interest of Northamptonshire rail travellers are not compromised by the construction and operation of the proposed scheme, and that adequate capacity is available to accommodate forecast growth, particularly with respect to the planned reduction in the number of platforms available at Euston.
- **Minerals and waste** – ensuring that waste generated by the development is able to be effectively and efficiently managed and that the demands for aggregates and where they are to be sourced from are identified.
- **Wider Environmental Issues** – ensuring that the design of the scheme effectively mitigates its environmental impact on Northamptonshire communities.
- **Costs of the County Council** – ensuring that the County Council is adequately reimbursed for the costs of approvals as it will be required under the provisions of the Bill once enacted.

4.3 Following submission of the Petition, extensive negotiations took place between County Council officers and representatives of High Speed Two Limited (HS2 Ltd - the Government-owned company responsible for promoting HS2). As a result of these negotiations, an Assurance was offered on behalf of the Secretary of State for Transport on 30<sup>th</sup> January 2015 offering:

- A revised permanent diversion of Banbury Road/Warwick Road near Lower and Upper Boddington;
- The provision of turning heads for five temporary or one permanent closure of roads;
- The realignment of four Public Rights of Way and additional planting for a further Right of Way;
- An assurance relating to the Nominated Undertaker (as defined by the Bill) providing an appropriate level of funding to meet the County Council's costs;
- The provision of alternative routes for construction traffic to reach the Lower Thorpe Satellite Construction Compound;
- An assurance relating to further work to assess the capacity of the Euston station; and
- To construct the A361 Chipping Warden Relief Road subject to a £2million contribution from the County Council.

4.4 With regards to other issues raised in the County Council's Petition, discussions with HS2 Ltd had either already offered sufficient assurance or it had been decided either to leave the issues to other petitioners or not to pursue the matters further. Consequently, the County Council determined not to make its scheduled appearance before the Select Committee on 2 February 2015.

4.5 The assurance with the Secretary of State was subject to his obtaining appropriate powers for a number of the measures (such as the powers to acquire land for the Chipping Warden Relief Road). These powers have been included in the Additional Provisions subsequently laid before Parliament, and should be included in the Act which receives Royal Assent in due course.

4.6 The Select Committee heard from many other Petitioners within Northamptonshire, and as a result of two of these Petitions the Additional Provisions have also included powers for improvements to the A361/Welsh Lane and B4525/Sulgrave Road junctions.

4.7 In addition, following the petition of Wardington Parish Council (in Oxfordshire), the County Council, jointly with Oxfordshire Parish Council and Wardington Parish Council, has been given further assurances by the Secretary of State in relation to A361 construction traffic.

## **5. Qualifying Authority**

5.1 The High Speed Rail (London – West Midlands) Bill, once it receives Royal Assent, will authorise, amongst other things~:

- The construction of significant works in the county;
- The compulsory acquisition of significant amounts of land; and
- Significant alterations to and interference with highways.

5.2 The permission granted by the Bill for the construction of the railway will be subject to a number of conditions requiring the Nominated Undertaker (the party or parties who

will construct the railway) to obtain the consent or approval of the Local Planning Authorities along the route for certain matters.

5.3 The Bill gives each Local Planning Authority a choice between having a wide or narrow range of controls over the approval of construction details. Local Planning Authorities opting for a wider range of controls are referred to as 'Qualifying Authorities'.

5.4 Qualifying Authorities will be responsible for issuing consents and approvals in relation to matters such as:

- Buildings (including bridges) and road vehicle parks
- Terracing
- Cuttings
- Embankments and other earthworks
- Mineral extraction sites (borrow pits)
- Fences & walls
- Telecommunication masts
- Pedestrian access to the railway line
- Artificial lighting, waste and spoil disposal, traffic routing

5.5 Local Planning Authorities choosing not to sign the Planning Memorandum and are referred to in the Bill as "Non-Qualifying Authorities". They will have a more restricted role and will only be required to approve plans and specifications for buildings.

5.6 If it chooses to become a Qualifying Authority, the County Council will have responsibility for issuing consents and approvals in relation to those matters listed above for which it generally has control through the planning system, ie, highways, borrow pits and waste and spoil disposal.

5.7 There are, in broad terms, two main sets of ground on which works may be refused or conditioned by a qualifying authority. These are:

**i) That the design or external appearance of the works ought to be modified:**

- (1) To preserve the local environment or local amenity,
- (2) To prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,
- (3) To preserve a site of archaeological or historic interest or nature conservation value

And is reasonably capable of being so modified

**ii) That the development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.**

5.8 Non-Qualifying Authorities will only be able to refuse approval under Grounds (i)(1) and (ii), that is if the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, or that the development ought to be carried out elsewhere on land within the Act limits. Non-Qualifying Authorities will not be able to refuse approval on the basis of road safety or free flow of traffic in the local

area, or in the interests of preserving a site of archaeological or historic interest or nature conservation value.

- 5.9 Councils wishing to become Qualifying Authorities are required to sign the Planning Memorandum. The Planning Memorandum is a document that sets out rules of conduct and administrative arrangement for both the Local Planning Authorities and the Nominated Undertake. Importantly, it requires the Council to commit to dealing with applications for consent in an expedient manner and being sufficiently resourced to do so. It is likely that the timescale for determination of application will be 8 weeks, which is in line with the statutory determination period for non-major planning applications.
- 5.10 The County Council, along with other Councils whose areas are affected, has been involved in negotiating the form and content of the Planning Memorandum with HS2 Ltd. A final version has now been produced and forms Appendix 1 of this report.
- 5.11 In order to become a Qualifying Authority, the Council must sign the Planning Memorandum before the end of the House of Lords Select Committee, likely to be in early Autumn 2016.
- 5.12 In summary, becoming a Qualifying Authority involves a commitment by the Council to deal with applications appropriately, and within specified timescales, in return for greater control over a wider range of matters than it would otherwise have.

## **6. Financial Implications**

- 6.1 To date only limited information has been provided by HS2 Ltd in respect of the volume of consents likely to be submitted. However, it is likely that a significant amount of extra work will be generated.
- 6.2 It is acknowledge by the Department for Transport that the cost of processing approvals and consents will constitute a new burden on the Council.
- 6.3 It is proposed, in line with the assurance received from the Secretary of State referred to in section 4.3 that the additional costs incurred in dealing with these will be paid by HS2 Ltd under the terms of a Service Level Agreement, which is presently subject of negotiations between the Council and HS2 Ltd. Payment will take the form of either a set fee for application or funding provided to the County Council for additional staff to deal with the extra work.
- 6.4 The objective of the Service Level Agreement is to ensure that the Council is reimbursed fully for the additional work generated by the consents and approval process for HS2.

## **7. Delegated powers for approvals and consents under the HS2 Act**

- 7.1 As explained in section 5 above, once the HS2 Bill becomes law, the County Council will be required to issue consents and approvals for various matters relating to highways, borrow pits and waste and spoil disposal in relation to HS2. These consents will be made under the HS2 Act, rather than existing planning or highway legislation, and consequently existing delegated powers under the County Council's constitution will not apply.

7.2 In exercising the County Council’s powers under existing legislation, the scheme of delegation in the County Council’s constitution provides for approvals on minerals and waste matters to be determined by the Assistant Director Environment, Planning and Transport or by the Development Control Committee. However, equivalent development-related highway approvals (other than our own new road schemes) are delegated solely to the Assistant Director Environment, Planning and Transport because planning permission for the associated development is granted by the district and borough councils and, where appropriate, considered by their committees.

7.3 As the district and borough councils will only be dealing with their own specific approvals relating to HS2, recommendation 4 of this report proposes that delegated powers are agreed which allow the Assistant Director Environment, Planning and Transport to determine all HS2 matters (including Highways) or refer to the Development Control Committee for assessment or determination.

## 8. Consultation and Scrutiny

8.1 The Government has already consulted on its HS2 proposals, which are subject to ongoing scrutiny by Parliament. The County Council, along with many other interested bodies and individuals, has responded to these proposals and petitioned Parliament with regards to its concerns about the project, and these matters have been the subject of previous Cabinet and full Council reports.

8.2 The current report deals with detailed, although very important, administrative matters relating to how the County Council deals with approvals and consents which it will be asked to make once the HS2 Bill becomes law. Undertaking public consultation on these matters is not considered appropriate.

## 9. Equality Screening

9.1 While this proposal is an important one ensuring that the County Council has appropriate powers to deal with consents and approvals relating to HS2, it does not make any proposals directly relating to customers and the service they receiving.

<b>Reason that no EqlA is required</b>	<b>as appropriate</b>
The paper is for information only	
The proposal/activity/decision has no impact on customers or the service they receive	
The proposal impacts upon staff but the proposed staffing changes will not affect the service that customers receive*	
Other (please explain further)	

\* where a proposal affects staff, the appropriate HR processes will be followed, which have already been subject to the EqlA process and will be compliant with HR legislation

## 10. Alternative Options Considered

10.1 The alternatives relating to the County Council becoming a Qualifying Authority or Non-Qualifying Authority have been set out in section 5 of this report. .

## 11. Risk and Business Continuity Management

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
Becoming a Qualifying Authority places an additional burden on the County Council.	The Service Level Agreement will recompense the Council for this additional burden.	Green
Volume of applications (and resource implications) are not yet known.	HS2 Ltd are committed to early discussion re the volume of applications.	Amber

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
County Council will not be able to refuse consents on highway safety or traffic reasons if it does not become a Qualifying Authority	Red
County Council will not be reimbursed for its costs if it does not sign the Service Level Agreement.	Red

## 12. List of Appendices

Appendix 1 – Draft Planning Memorandum

Author:	Name: Chris Wragg Team: Northamptonshire Highways
Contact details:	Tel: 01604 364411 Email: cwragg@northamptonshire.gov.uk
Background Papers:	<a href="http://www3.northamptonshire.gov.uk/council/services/northamptonshire-highways/transport-plans-and-policies/Pages/high-speed-two.aspx">http://www3.northamptonshire.gov.uk/council/services/northamptonshire-highways/transport-plans-and-policies/Pages/high-speed-two.aspx</a>
Does the report propose a key decision is taken?	YES
If yes, is the decision in the Forward Plan?	YES
Will further decisions be required? If so, please outline the timetable here	Unknown at this stage.
Does the report include delegated decisions? If so, please outline the timetable here	Recommendation 2- September 2016 Recommendation 3 – following finalisation of Service Level Agreement by HS2 Ltd Recommendation 4 – following Royal Assent to the High Speed Rail (London – West Midlands) Bill
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)?	YES Name of SFM: Rosemary Pallot
Have any capital spend implications been cleared by the Capital Investment Board	N/A

(CIB)	
Has the report been cleared by the relevant Director?	YES Name of Director: Tony Ciaburro
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: Councillor Ian Morris
Has the relevant scrutiny committee been consulted?	NO Scrutiny Committee: Environment, Development and Transport
Has the report been cleared by Legal Services?	YES Name of solicitor: Debbie Carter-Hughes
	Solicitor's comments:
Have any communications issues been cleared by Communications and Marketing?	YES Name of officer: Liam Beasley
Have any property issues been cleared by Property and Asset Management?	N/A
Are there any community safety implications?	None apparent from this decision, although this decision proposes how such implications would be dealt with when consents or approvals are sought.
Are there any environmental implications:	None apparent from this decision, although this decision proposes how such implications would be dealt with when consents or approvals are sought.
Are there any Health & Safety Implications:	NO. None apparent from this decision, although this decision proposes how such implications would be dealt with when consents or approvals are sought.
Are there any Human Resources Implications:	NO
Are there any human rights implications:	NO
Constituency Interest:	Brackley – Cllr Jim Broomfield Middleton Cheney – Cllr Ron Sawbridge Silverstone – Cllr Ian Morris

