

HS2 – NEXT STEPS

Cabinet Member: Councillor David Johncock

Ward Affected: Icknield

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PROPOSED DECISION

That:

- (i) WDC become a Qualifying Authority for the purposes of the High Speed Rail (London-West Midlands) Bill and delegated authority be given to the Head of Planning and Sustainability in consultation with the Cabinet Member for Planning and the District Solicitor to enter in to the required agreement with HS2 Ltd to give effect to this decision;
- (ii) The work being done at officer level to identify opportunities for joint working with other Buckinghamshire local authorities including the possibility of establishing a joint team to co-ordinate further responses to HS2 Limited and/or central government in relation to the HS2 project is noted and that delegated authority be granted to the Head of Planning and Sustainability in consultation with the Cabinet Member for Planning and the District Solicitor to finalise such agreement as may be required to put this into effect; and
- (iii) delegated authority be granted to the Head of Planning and Sustainability to direct any joint team or third party acting on behalf of the Council on how to respond on all planning and environmental health matters relating to Wycombe District.

Reason for Decision

To provide an update on the current position and future work, and secure decisions to continue to protect the Council's position.

Corporate Implications

1. The High Speed Rail (London – West Midlands) Bill has been passing through Parliament since first published in November 2013. The purpose of the Bill is to enact Phase One of the project between London and the West Midlands and grant powers to HS2 Ltd (the “promoter” of the scheme) to build and maintain HS2 and associated works, compulsorily acquire interests in the land required, affect or change rights of way including the stopping up or diversion of highways and waterways, and modification of infrastructure.
2. On 23 March 2016 the Bill completed its Report/Third Reading stage in the House of Commons and it has now been introduced into the House of Lords to commence the Report/Third Reading process in that House.
3. Once the process in the House of Lords is completed, the final stage of the Parliamentary process will be Royal Assent to bring the Bill into law as an Act

of Parliament.

4. The Bill, which is a “hybrid Bill” (which have the characteristics of both Public and Private Bills, and are sometimes used to enact law which will have an impact on both the general public and specific individuals and groups) will become an Act of Parliament once Royal Assent is given, and will grant Planning Permission and powers to take over the necessary land to HS2 Ltd.
5. Schedule 17 Part 1 of the Bill places certain conditions on the deemed planning permission that will be granted, including defining certain matters which will fall to the relevant planning authority to determine.
6. The legislative process has been arranged to ensure that because there will be a considerable number of submissions made by HS2 Ltd for local planning authority approval under the Planning Conditions Schedule, the process of obtaining the approvals does not unduly hinder construction of HS2.
7. Schedule 16 Part 2 Paragraph 13 of the Bill requires the Secretary of State to make an order specifying every relevant local authority which has, on or before the date of the reporting of the Bill following completion of the House of Lords Select Committee, given an undertaking with respect to the handling of planning matters under that schedule which the Secretary of State considers satisfactory. Such authorities must enter into a Memorandum with the Secretary of State (currently in its third draft) setting out those undertakings, as a result of which they will be treated as a Qualifying Authority.
8. Qualifying Authorities are entitled to determine various matters in relation to the statutory conditions, (akin to reserved matters in relation to a planning permission) to a greater extent than non-qualifying authorities, and to be reimbursed with their costs of doing so by HS2 Ltd. In brief, for non-unitary areas such as Wycombe, the local planning authority will determine all submissions for matters for approval under the Planning Conditions Schedule in the Bill except for plans and specifications and construction arrangements about waste and soil disposal and excavation of bulk materials from borrow pits, and construction arrangement comprising lorry routing, which instead fall to the County Council to determine.
9. Qualifying Authorities automatically become a member of the Planning Forum (set up by the Bill/Act to include local planning authorities and representatives from Government Departments to help co-ordinate and secure the expeditious implementation of the planning provisions in the Bill) and are obliged to take into account its conclusions. Certain specialist or technical matters relevant to the statutory functions of the qualifying authorities will be referred to the relevant sub-group of the Forum.
10. HS2 Ltd has produced a draft Local Environmental Management Plan (LEMP) which outlines site specific control measures, which are to be developed further after consultation with relevant stakeholders. This has been prepared for both CDC and WDC together, and the comments of both Councils are being coordinated.
11. £24,000 of a £30,000 budget remains available to support the Council’s work in relation to HS2. This is considered adequate for the foreseeable future.

Executive Summary

12. Previous reports have been considered by Council and Cabinet to oppose the HS2 project and to take steps to minimise its impact on the District. The Parliamentary process has considered WDC's arguments as part of the work undertaken by the House of Commons Select Committee, and the Bill has now moved on to the House of Lords Select Committee; following that, and Third Reading in the House of Lords, Royal Assent is the final step to bring the Bill into law. Having petitioned the Commons Select Committee, WDC is not petitioning the Lords.
13. It is now necessary to consider whether the Council wishes to be a Qualifying Authority and to consider such supporting arrangements as may be expeditious to continue to allow the Council to exercise a role in relation to design and mitigation issues as far as possible once Royal Assent is given.

Sustainable Community Strategy/Council Priorities - Implications

14. This report supports the Council's Corporate Plan's Regeneration and Infrastructure theme by seeking to ensure a sustainable balance between homes, jobs and supporting infrastructure so we can accommodate required growth without compromising the quality of our valued natural environment and rural areas, and thereby supports the Sustainable Community Strategy.

Background and Issues

15. On 13 December 2010, full Council debated a notice of motion in relation to the HS2 proposals, and agreed to support the position of Steven Baker MP, that the Government's proposals be opposed because they were considered to be economically unsound, environmentally damaging, and not in support of the national interest.
16. A further report was considered by Cabinet on 10 February 2014 at which stage the Council had spent or committed £30,000 towards technical work including noise, landscape impact, economic assessment and legal advice.
17. On 10 February 2014 Cabinet resolved to reiterate its opposition to the HS2 project as contained in the High Speed Rail (London – West Midlands) Bill, to delegate power to the Head of Planning and sustainability, in consultation with the Leader, Deputy Leader and Cabinet Member for Planning and Sustainability, to take all reasonable steps to ensure that the impact of HS2 was minimised (including the appointment of professionals and specialists, with a further budget of up to £30,000 set, and that a future report should be brought to Cabinet if the financial limit was reached.
18. Since, then, having appointed Sharpe Pritchard, a firm of London solicitors and Parliamentary agents to act on its behalf, the Council along with other Councils in Buckinghamshire and those affected by other parts of the route petitioned Parliament (in May 2014) has had its arguments considered as part of the proceedings of the Commons Select Committee considering HS2. In November 2015 the leader of the Council appeared before the select committee along with representatives of other Councils to make the case for construction traffic to use alternative routes to the A4010. This was successful in that HS2 Ltd confirmed that they do not intend to designate the A40 through West Wycombe as a route for construction traffic (i.e. by more than 24 HGV daily) and funds

were secured for measures to mitigate the impact of additional HGV movements along the affected routes including the A4010.

19. Following representations concerning the impact of the new railway on the Chilterns Area of Outstanding Natural Beauty (AONB) it was agreed that a Chilterns AONB Review Group be set up with a £3m budget for additional mitigation allocated to the AONB.
20. Only a small part of the route running through Wycombe District is within the AONB; however the remit of the Group also includes ensuring that the impact on the setting of the AONB is mitigated, and this is a particular concern given that the new rail line will be visible from sections of the AONB within Wycombe District including Coombe Hill which is the highest point in the Chiltern hills and a popular visitor destination. A consultant has been appointed to represent Wycombe District Council and Chiltern District Council at this forum.
21. Currently, in terms of the Parliamentary process, the work of the Commons Select Committee is complete. The next stage is for the Lords Select Committee to also consider the matter. It is likely to last until, at the earliest, approximately mid-July.
22. Meantime, all authorities affected by HS2 need to make a decision, in accordance with the contents of the Bill, whether or not to resolve to become a "Qualifying Authority".
23. By resolving to become a Qualifying Authority, each affected authority can secure for itself more powers to have influence over certain residual aspects of planning permission, and the ability to recoup from HS2 Ltd the costs of doing so, subject to reaching a service level agreement with HS2 on this issue. Further details around the role of a Qualifying Authority are set out in Appendix A.
24. The other Buckinghamshire local authorities are expected to resolve to become Qualifying Authorities (Chiltern DC has already so resolved, on 4 April 2016) and whilst WDC is considerably less affected by the length of line to pass through its District, it would nonetheless be worthwhile to retain this additional element of control, particularly since this also enables the costs thereof to be recouped.
25. Assuming WDC resolves to be a Qualifying Authority, the question then arises as to how the necessary work – primarily dealing with Schedule 17 applications - can and should be resourced. There may be opportunities to achieve economies of scale and consistency of approach by pooling resources and setting up a single cross-authority team. The options for joint working, including possibly a single team to represent several or possibly all of the Bucks authorities, are being considered. It is not envisaged that any staff in the team would be employed by Wycombe District Council.
26. This would necessitate agreement with other participating authorities to allow this work to be carried out.
27. WDC would continue to retain the autonomy as to how the specific planning matters in relation to WDC will be responded to, and it is recommended that the power to deal with these be delegated to the Head of Planning and Sustainability.

Consultation

28. Discussions have been held with representatives of other Buckinghamshire Councils on issues associated with the scope for joint working.

Options

29. The Council need not resolve to be a Qualifying Authority and enter into an agreement with HS2, but if it decided not to do so, it would have a lesser role in determining matters relating to planning conditions, and would be unable to recoup its costs.
30. The Council need not enter into an agreement with other authorities but could deal with any schedule 17 applications as part of its Development Management function. This would place additional pressures on this service.

Conclusions

31. The recommended decision best supports the Council's established position, and maintains consistency with other Bucks authorities

Next Steps

32. Discussions with other authorities are continuing and any agreement pursuant to this will be concluded in line with the delegation agreed. The agreement with HS2 as outlined in the recommendations will be finalised to enable the Council to become a Qualifying Authority and recoup its costs. .

Background Papers

LEMP and WDC response

Draft SLA with HS2