



# Report to Planning, Growth & Sustainability Management Team

**Date:** 11 February 2021

**Title:** HS2 £1m North Bucks Environmental Mitigation Assurance Fund

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## Recommendation:

- To agree the release of the £1m environmental mitigation funding to Parish Councils in line with the terms of the Assurance provided by HS2 Ltd.
- To agree the payment of Interest which would have accrued on the £1m fund, to the Parishes in equal shares with no restriction as to how it can be spent.
- To agree an up-front payment of £10,000 per Parish Council from the £1m fund to support project cashflow.
- To confirm setting up a funding agreement for use of £35,000 additional funding which has been agreed by HS2 Ltd to cover the Council's costs in managing and administering the Fund.
- To agree the governance arrangements for these funds, including establishing Memoranda of Understandings (MoU) between Buckinghamshire Council (BC) and the Parish Councils to protect BC's status as the Accountable Body for the HS2 funding.

## 1. 1. Background

- 1.1 During HS2 petitioning of Parliament in 2015, The Leader negotiated a fund of £1m to be shared by Calvert Green Parish Council, Charndon Parish Council, Steeple Claydon Parish Council and Twyford Parish Council, who will all be badly affected by the project.

- 1.2 The basis as written into the Assurance by HS2 Ltd (Appendix 1), was to provide further environmental mitigation (beyond that provided within the Environmental Statement) linked to the construction of the Infrastructure Maintenance Depot (IMD).
- 1.3 This funding was transferred to AVDC in May 2017 and has been held in reserve.
- 1.4 A further £35,000 was negotiated with HS2 Ltd to cover the Council's management and administration costs in relation the Fund. This funding has not yet been drawn down.
- 1.5 The Parish Councils have requested the payment of interest on the £1m Fund, which has been calculated as £17,857 (to 1/12/2020) by Finance.

## **2. 2. Main content of report**

### £1m Environmental Mitigation Fund

- 2.1 Several meetings have been held with the four Parish Councils, local Buckinghamshire County Councillors (as was), Aylesbury Vale District Council (as was), officers and HS2 Ltd, since 2016, to discuss how the Fund might be spent and on what. No consensus was reached.
- 2.2 In early November 2020 however the local Councillor, Angela Macpherson, informed officers that all four parishes had now agreed to split the Fund equally and asked that the Council delegate the funds to them, with any interest that had accrued.
- 2.3 Ongoing discussions between officers, Parish Councillors and the member for North Buckinghamshire have centred on two key issues:
  - 1) How and when the Parish Councils could draw down the funding:
- 2.4 The Parish Councils all now want access to the funds and two potential projects have been proposed by Charndon Parish Council: creation of an ecology area at Calvert to encourage wildlife habitation and provide an ecology learning area, costing £35k and the replacement of Parish Council owned street lights, with energy efficient LED lights costing £8k.
  - 2) What the funding could be spent on:
- 2.5 Although the HS2 Assurance stipulates the spend should be on environmental mitigation, and they have subsequently provided a definition of this and potential schemes that could be included (Appendix 2), the Parish Councils wish to have the funding 'without strings attached' so they have greater flexibility over the spend.
- 2.6 The local Councillor, Angela Macpherson has asked officers to explore changing the Assurance with HS2 Ltd and DfT to reflect the wishes of the Parish Councils.
- 2.7 HS2 Ltd have advised that there is a process to amend the Assurance: The Council could apply to the Department for Transport Assurance Compliance Committee for

an amendment, however, HS2 Ltd have informally advised that such applications are not often successful, and it would also consume significant time/staff resource in the Council's HS2 team.

- 2.8 A meeting was held with Department for Transport (DfT) on 18 January 2021 to explore whether any greater flexibility could be built into the criteria. Although sympathetic, DfT officers could not agree to set a precedent which could affect other assurances and go against what Parliament had previously agreed. This was followed up with a note suggesting how the Funds might be prioritised for environmental mitigation (Appendix 3; Section 4 could be considered to broaden the scope particularly around community benefit).
- 2.9 The Service Director, Strategic Transport & Infrastructure has written to the DfT for an informal view as to how such a request would be received. It is understood from the local Councillor the matter is also being progressed with the DfT by the local MP, Greg Smith. Once the outcome of these approaches is known, further consideration will be given to progressing a request for a change to the Assurance.

#### Management and Administration Costs

- 2.10 In order to cover the Council's costs of project management and administration, an additional £35,000 was also negotiated. During the course of meetings between BC, the Parish Councils and local Councillor, there was some suggestion from the Parish Councils that this money should to be delegated to them, however, the local Councillor believes that this suggestion had been dropped.
- 2.11 In any event, this funding will be required by BC to cover the costs of the work undertaken by officers to date and the likely workload going forward. The funds have not yet been drawn down by the Council and will require appropriate evidence of time and other costs associated with the management and administration of the Fund.

#### Financial & Legal Implications

- 2.12 The £1m grant has been brought forward into the new authority (as prepaid grant income).
- 2.13 HS2 Ltd has indicated that they do not wish to have Funding Agreements with each of the Parish Councils; they expect BC to remain the beneficiary to the Assurance and therefore The Council, as Accountable Body, is responsible for ensuring the money is spent in accordance with the Assurance. If this does not happen, then, as Accountable Body, BC would be liable to repay HS2 Ltd (given the sums involved it is unlikely that the Parish Councils would have enough reserves to reimburse HS2 Ltd).

**Governance arrangements to minimise risk to the Council are proposed and attached as Appendix 4.**

- 2.14 The proposed governance arrangements include the set up of MoUs between BC and Parish Councils, who will make claims for drawdown from the Fund in line with the governance arrangements. This will include production of evidence to demonstrate compliance with public sector procurement requirements and defrayal of costs.
- 2.15 Initially the Parish Councils expressed concern that unless funding was available to them up front, being small parishes without significant cash reserves, they would not be able to accommodate cashflow requirements to fund project costs. Following subsequent discussion with the local Councillor, it is proposed that an initial payment of £10,000 per parish could be released from the £1m fund following approval of an eligible project. Arrangements for this are referenced in the proposed MoU.
- 2.16 AVDC initially told parishes that they would accrue interest on the £1m, however that interest was not set aside and has not been brought forward into the new authority. To honour the agreement with the parishes, BC will need to fund a small one-off pressure of £17,857 to cover the interest which will be met corporately.
- 2.17 A Funding Agreement will be required between HS2 Ltd and BC in relation to the £35,000 management and administration funding.

### **3. 3 Next steps and review**

- 3.1 Upon agreement of the recommendations, officers will make arrangements to set up MoUs with the four Parish Councils by 12 March.
- 3.2 Once MoUs are in place, the interest will be paid to the Parish Councils and they can start projects in line with the agreed governance arrangements.
- 3.3 A Funding Agreement will be made with HS2 Ltd in relation to the funds allocated for management and administration of the Fund.
- 3.4 Further consideration will be given to requesting an amendment to the Assurance in the light of discussions between Greg Smith and DfT.

## **4 Appendices**

1. U&A reference 1875
2. Definition of Environmental Mitigation and examples of potential schemes – provided in Email from Richard Nuttall, Senior Interface Manager, HS2 Ltd 11/11/2020.

3. Guidance note to help the Parishes decide how to allocate the funding in line with the assurance – provided by Tom Hinds, Head of HS2 Act Powers and Environment at Department for Transport, 22/01/2021.
4. Draft Governance Arrangements
5. Draft Organogram
6. Draft Memorandum of Understanding



## **Appendix 1**

### ***U&A reference 1875***

The Secretary of State, recognising the particular situation at this location with the introduction of major infrastructure (the Infrastructure Maintenance Depot) into an environmentally sensitive area, will make available the sum of £1m (to be paid within 90 days of Royal Assent) to Aylesbury Vale District Council to support further local environmental mitigation which is over and beyond that proposed in the Environmental Statement or related detailed design subject to Aylesbury Vale District Council confirming and agreeing such proposals with the Promoter. Proposals for this additional mitigation will be discussed further at the Community Liaison Group, including with the representatives of Aylesbury Vale District Council, Buckinghamshire County Council, and the four parish councils of Steeple Claydon, Calvert Green, Charndon and Twyford attending that meeting, as mentioned below.

In the event that the Bill gets Royal Assent but HS2 is not then proceeded with, Aylesbury Vale District Council will repay the funds, plus interest accrued, but less reasonable expenditure already incurred, to the nominated undertaker.

### ***U&A reference 2479***

The Secretary of State will require the nominated undertaker to fund provide a contribution up to a maximum of £35,000 ("the Contribution") to Aylesbury Vale District Council or Buckinghamshire County Council (as appropriate) for the costs of administering the £1m additional mitigation fund ("the Mitigation Fund") in the Calvert and Steeple Claydon area, over a period of two years subject to the following conditions:

The Contribution is to be applied solely to the administrative costs of managing the Mitigation Fund and attending the local regular community meeting mentioned in the Calvert assurances;

The Contribution shall be paid on a date agreed following Royal Assent, in 2017/18, as a single payment to either the Aylesbury Vale District Council or Buckinghamshire County Council (as appropriate) in full and final settlement of any future claim by Aylesbury Vale District Council or Buckinghamshire County Council in respect of the administrative costs of managing the Mitigation Fund;

In the event the Contribution has not been applied towards the administrative costs outlined in paragraph i during the detailed design period for the Proposed Scheme in the IMD area, Aylesbury Vale District Council or Buckinghamshire County Council shall return the Contribution to the nominated undertaker plus interest accrued, but less reasonable expenditure already incurred.

## Appendix 2

A definition of environmental mitigation is activities that are intended to address or offset any negative effects on the environment caused by (in this instance HS2).

HS2 Ltd provided their 'blue sky' thinking around possibilities to spend it on. it isn't HS2 Ltd direction its merely suggestions of ideas.

There has be no analysis or look at these ideas in any detail, just purely thoughts and all of these are assumed to be outside of Act limits and in addition to work which HS2 Ltd will be doing:

- Butterfly Conservation mitigation and management for Black Streak butterfly (communities could then work with the charity co. for specific ideas)
- Additional planting for bat flight lines and restoration of old woodland areas
- Community bird hide and signage at Jubilee Lakes LWS
- Joint working with the National Trust at Claydon House for environmental improvements
- Looking at improving PRow in the local area including some planting alongside to improve wildlife corridors (which could be wildflower seeding as well as planting of shrubs and trees). Could combine this with a local Calvert environmental trail with a leaflet showing route and some information about what people can see along the route
- An ecological 'tool box' for local school to use as part of the curriculum making use of local sites (such as pond dipping)
- Any joint projects with FCC to bring some of the land close to Calvert and turn it over for community/environmental use such as a community orchard (thinking of the small area they were previously using for mobile cabins close to route to south of Calvert)
- Management of Sheephouse Wood SSSI in conjunction with Claydon Estate
- Access to nature – making sites available to people of all abilities (e.g. wheelchair users) to carry out pond dipping
- Community beehive project

### Appendix 3

The Calvert £1m Environmental Mitigation Fund

Assurances 1855 (Bucks CC) & 1875 (AVDC) state:

“The Secretary of State, recognising the particular situation at this location with the introduction of major infrastructure (the Infrastructure Maintenance Depot) into an environmentally sensitive area, will make available the sum of £1m (to be paid within 90 days of Royal Assent) to Aylesbury Vale District Council to support further local environmental mitigation which is over and beyond that proposed in the Environmental Statement or related detailed design subject to Aylesbury Vale District Council confirming and agreeing such proposals with the Promoter. Proposals for this additional mitigation will be discussed further at the Community Liaison Group, including with the representatives of Aylesbury Vale District Council, Buckinghamshire County Council, and the four parish councils of Steeple Claydon, Calvert Green, Charndon and Twyford attending that meeting, as mentioned below.”

Suggested approach for identifying how to prioritise the fund:

Funding is intended for local environmental mitigation (reducing the project’s impacts on the environment), as distinct from overtly community-oriented projects, or compensation measures (replacing something lost with something completely different).

The fund is for mitigation over and beyond that provided by HS2 Ltd and its contractors. Therefore, it makes sense, as far as possible, to seek to understand the HS2 project’s proposals as fully as possible prior to finalising plans for what might be deemed a the ‘top-up’ fund.

A potential hierarchy for assessing proposals might be as follows:

1. Addressing any perceived gaps in the environmental mitigation relating specifically to the impact of the Infrastructure Maintenance Depot;
2. Addressing any perceived gaps in the environmental mitigation relating or any local significant effects identified in the Environmental Statement (CFA 13 – Calvert, Steeple Claydon, Twyford and Chetwode\*);
3. Addressing any perceived gaps in the environmental mitigation relating or any significant effects identified elsewhere in the Environmental Statement (noting that some effects, such as on carbon, are not always local);
4. Addressing any perceived gaps in the environmental mitigation relating to any of the Environmental Statement categories (listed below).

The Environmental Statement categories are as follows:

- Agriculture, forestry and soils (AG)
- Air quality (AQ)



- Community (CM)
- Cultural heritage (CH)
- Ecology (EC)
- Electromagnetic compatibility (EM)
- Land quality (LQ)
- Landscape and visual assessment (LV)
- Socio-economics (SE)
- Sound, noise and vibration (SV)
- Traffic and transport (TR)
- Waste and material resources (WM)
- Water resources and flood risk assessment (WR)

The Department considers that approaching the identification of projects in the following way will assist parishes to develop proposals that are both beneficial to local communities and acceptable within the terms of the assurance:

Step 1: identify and consider the local impacts of railway construction or operation that could require mitigation. The local CFA report(s) and the environmental scope categories in the Environmental Statement provide a starting point for this consideration.

Step 2: identify and collate areas (in terms of both location and scope) where environmental mitigations would be considered beneficial to local communities. Again, the proposed mitigations should fall within the scope categories in the Environmental Statement.

Step 3: develop project proposals in line with the identified areas for mitigation and demonstrate a clear line back to the negative impact identified in Step 1.

\* **Please note:** that this refers to the Community Forum Area, as defined by HS2 Ltd in its Environmental Statement. The parishes that have been awarded environmental mitigation funding under U&A 1875 are Calvert Green, Steeple Claydon, Twyford and Charndon. JW 210202