

FOR: REGULATORY AND LICENSING COMMITTEE

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Agenda Item: 7

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SUBMISSION BY NEIL WAIT- SENIOR ENVIRONMENTAL PROTECTION OFFICER

HS2 UPDATE – PHASE 1 ENVIRONMENTAL STATEMENT CONSULTATION

1. Purpose of Report

- 1.1 To advise Members of Environmental Health's input into this consultation process, and highlight the key issues raised.

2. Background

- 2.1 Environmental Health's role regarding HS2 is to represent Lichfield District residents' interests and ensure residents impacted achieve the highest level of protection possible.
- 2.2 All Members have been regularly updated regarding HS2 by a series of reports presented to Cabinet by the Cabinet Member for Economic Growth and Development. The most recent report was presented on 14 January 2014.
- 2.3 This report is to advise members of this Committee of Environmental Health's role regarding HS2 and the input into the current phase 1 Environmental Statement Consultation.
- 2.4 The HS2 Phase One Hybrid Bill and supporting information was deposited to Parliament on 25 November 2013. This deposit marks the start of a 56 day consultation on the Environmental Statement which ends on 24th January 2014. This closing date has subsequently been extended until 10 February 2014.
- 2.5 The Environmental Statement is a vast document, totalling of 50,000 words over 5 volumes with numerous appendices.
- 2.6 The key areas covered in the Environmental Statement for Environmental Health to comment are; Air Quality, Land Quality, Noise & Vibration and Construction Control.
- 2.7 Over the last 18 months Officers have attended and contributed to Forums set up and hosted by HS2 regarding noise & vibration, and construction controls. Forum members include Environmental Health Officers from Council's along the proposed route between London and Lichfield District. This has been an opportunity to engage with

HS2 and their environmental consultants during the preparation of the Environmental Statement.

- 2.8 The final consultation response will be a joint submission between Staffordshire County Council and Lichfield District Council.

3. The Consultation response

- 3.1 Joint comments by Staffs CC and environmental health for noise and vibration can be found in appendix A.
- 3.2 The key issues raised for noise and vibration are:
- Disagree with night time noise average screening level used in the methodology;
 - Disagree with the noise maximum screening level used in the methodology;
 - Disagree that single or small numbers of properties are NOT considered a receptor;
 - Believe maximum noise level contour maps should have been produced;
 - Various local concerns such as Streethay, Handsacre and Packington.
- 3.3 Environmental health comments for air quality, land quality and construction control can be found in appendix B.
- 3.4 The key issues raised here are:
- Disagree that single or small numbers of properties are NOT considered a receptor;
 - Believe the Code of Construction Practice lacks credibility. The plan includes agreeing local construction control measures with Councils and presenting these in a legal consent (as per Section 61 of the Control of Pollution Act, 1974). However, the Hybrid Bill diverts the S61 appeal away from Courts back to the Government. Further provisions in the Hybrid Bill make the project immune to Statutory Nuisance action.

4. Next stage

- 4.1 Once the environmental statement consultation has closed, the next stage is 'petitioning'. This is the process where challenges via formal notices can be made to Parliament regarding the phase 1 HS2 proposals. These are then passed for consideration to the select committees. The select committee stage of the Hybrid Bill process could take up to 18 months. Further information regarding this is contained within the January 2014 Cabinet report.
- 4.2 For the wider HS2 proposal, environmental health will continue to represent Lichfield District residents for both phases of the project on relevant matters such as noise and construction control etc.

5. Recommendation

- 9.1 For the Committee to note the role environmental health have had in compiling the joint Staffordshire County Council / Lichfield District Council HS2 Phase 1 Environmental Statement consultation response.
- 9.2 For the Committee to note environmental health's ongoing role to represent our residents throughout the HS2 proposal.

Background Documents:

The full HS2 Phase 1 Environmental Statement can be viewed at:
<https://www.gov.uk/government/consultations/hs2-phase-one-environmental-statement>

Appendix A – Joint Staffs CC & LDC noise & vibration comments

Appendix B – LDC air quality, land quality & construction comments

Document:		Volume 5: Noise and vibration
Page and paragraph reference	SCC previous comment in response to the draft Environmental Statement (if appropriate)	Full Environmental Statement Comment
		These comments apply equally for noise & vibration issues within Community Forum Areas 21 & 22 plus the off-route effects (ES Volume 4) between Lichfield and Colwich
Stage 1 - Acoustic Sub Group Findings		Staffordshire CC & Lichfield DC are members of the Planning Forum Acoustics Sub Group. One of the aims of the group is resolve and narrow down technical noise and vibration issues. Further below is a summary of the groups current unresolved issues as recorded in the sub group's Candidate Issues Register.
		There is a disagreement with the criteria not to identify individual or small numbers of properties as a having a significant effect when criteria is met. Other regulatory regimes recognise the impact on the nearest single or small number of properties (Statutory Nuisance & Local Authority Planning etc). We believe HS2 should amend its noise assessment policy to include the effects on single and small numbers of properties
		The significant impact criteria for LAFMax noise levels are not agreed. The maximum noise criteria are insufficient for rural areas.
		Disagreement with the day and night time average noise levels (50 dB day / 40 dB night) as 'lowest observed adverse effect level'. The night time level is insufficient for rural areas with low background noise levels.
		The noise contour maps within the ES should show the LAFMax level of noise.

Stage 2 - New ES comments		
CFA 21 Page 199 11.4.14		High levels of construction and operational noise would lead to Mill House and Packington Moor Farm qualifying for noise insulation. The Council seek assurances that HS2 will investigate other methods of providing mitigation to provide protection for external activities.
CFA 22 Page 230. 11.3.2.		HS2 propose to facilitate construction by use of temporary rail sidings at Streethay. We are concerned that the use of this siding particularly at night will cause unacceptable noise and seek assurances that mitigation will be provided to ensure adverse effects are minimised.
CFA 22 Page 230. 11.3.5.		HS2 were unable to obtain permission for baseline monitoring in some locations. Although HS2 indicate that sufficient information was obtained, the Council wish to ensure that HS2 engage further with local landowners to ensure that incomplete baseline data in these areas is obtained to enable a full impact assessment to be carried out.
CFA 22 Page 235. 11.5.16		HS2 have identified Streethay Farm, Mill Farm and Ravenshaw House as being eligible for noise insulation. The Council would like to see HS2 investigate further into providing other alternative mitigation measures that provide protection both internally and externally.
CFA 22 Page 236. 11.5.22		80 dwellings south of Handsacre would be subject to a major adverse effect. The Council believe that this is unacceptable and seek assurances from HS2 that further work will be carried out to offer improved levels of mitigation.
CFA 22 Page 237. 11.5.30		A significant noise effect has been identified on Hayes Meadow Primary School (identified as Handsacre Primary school). The Council are concerned that adverse levels of noise will occur externally which will impact on the teaching. Measures to reduce this must be investigated.

CFA 21 Page 199 11.4.18 & CFA 22 Page 235 11.5.20		We fundamentally disagree. Rural impact will occur below 40 dB LAeq at night due to existing low background. Night time average screening level should be 30 dB not 40 dB. Key Appendix A
CFA 21 Page 198 11.4.12 & CFA 22 Page 235 11.5.13		We disagree with maximum night time noise level criteria of 85 dB for < 20 trains per hour and 80 dB >20 train per hours. These parameters do not allow a sufficient assessment of impact in rural areas where background noise levels are low.
CFA 21 Page 194 11.3.2		Any night time working has the potential to be significant. Stating it is expected to be limited and dismissing it is not acceptable. Further detail will be required on how frequent it will be carried out and what mitigation measures will be proposed. Details are also required on what logistical controls will be implemented to ensure night time working will be kept to a minimum.
CFA 21 Page 200 11.4.26 & CFA 22 Page 237 11.5.31 & Vol. 4 Page 58 5.6.64		A number of statements appear in the ES following the identification of residential impacts, such as 'HS2 will continue to seek reasonably practicable measures to further reduce or avoid these significant effects'. An explanation of this together with specifying details is required. Non-inclusion of this information makes it difficult to fully appraise the ES.
Volume 4 Page 57 5.6.52		No consultation with the Local Authorities or other stakeholders was carried out regarding baseline monitoring locations for the off-route works.
Volume 4 Page 43 onwards Section 5.2		This section reports new works which had not been previously identified in the draft ES. These include an increase in train numbers and train speed along the WCML, night time working, satellite work compounds (5.2.14); 'Likely to be piles during possessions (5.2.20). These works are likely to be carried out over a two year period. We are concerned that there has been no prior community/stakeholder engagement regarding these off route works and that the assessment concludes that a negative impact will occur with no specific mitigation identified. The significant construction effects are to be mitigated by the Code of Construction Practice measures. Please refer to specific CoCP consultation comments.

Stage 3 - Draft ES comments not addressed		
	Operational	
	It is vital that the impact in rural areas is included in the process and we believe that a minimum contour level of 40 dB LAeq day and 30 dB LAeq night should be used.	Contour levels have remained at 50 dB LAeq day and 40 dB LAeq night and we believe that the impact on rural locations has not been adequately conveyed.
	We are concerned that the cumulative effect of LAMax levels from the passing trains will have an adverse effect on communities and expect that HS2 Ltd take this factor fully into account	We are concerned that the cumulative effect of LAMax levels from the passing trains has not been fully taken into account due to use of LpAFmax of 85 dB.
	We are concerned that the information provided on noise mitigation is only indicative. We believe that this makes it difficult for communities to not only visualise the type of mitigation proposed but also to submit suitable and feasible alternatives.	The information on noise mitigation is still indicative and we maintain our view that it is difficult for communities to visualise the type of mitigation and provide ideas for alternatives.
	We are concerned that some locations may not be able to be sufficiently mitigated to prevent adverse effect. These include locations where the line is on viaduct or where it joins the WCML. Examples of this are the viaduct near Streethay and at Handsacre.	We maintain our belief that some locations such as Streethay, Handsacre have not been sufficiently mitigated to prevent adverse effect and we seek assurances from HS2 that work in this area will continue.
	Where the proposed line joins the WCML near to Handsacre, we believe intensification of train movements on this section will have an impact on the community and in particular Hayes Meadow Primary School. We expect that the intensification of the WCML is included within the assessment process and appropriate mitigation provided where an increase in noise is identified	Intensification of the existing the WCML between Handsacre and Colwich will have a significant impact on the community and in particular Hayes Meadow Primary School. This impact has not been fully assessed in the ES and we expect this to be carried out in order that appropriate mitigation is identified.

	<p>The route passes close to the Trent & Mersey Canal where we are concerned that increased levels of noise near the Kings Bromley Marina and Fradley Junction will impact on the leisure industry and we seek reassurances that suitable and effective mitigation will be provided</p>	<p>Measures to mitigate against noise impact along the canal have not been identified. We seek assurances that canal users will not be subject to increased levels of noise and that HS2 provide mitigation to ensure this does not occur.</p>
	<p>We also have a concern regarding the impact of Rayleigh waves which can be associated with high speed rail and the type of ground conditions the line is constructed on. The area of research on this is limited and we are concerned that the actual impact may not be known until after the line is open</p>	<p>We are pleased that HS2 have recognised the potential problem of Rayleigh waves but seek assurances that where concern over soft ground conditions in certain locations exists, these areas are identified and full remediation measures made known.</p>
	<p>The noise impact on all properties, including isolated dwellings, to be fully included in the analysis of the impact assessment process</p>	<p>We continue to believe all communities large and small are entitled to the same level of noise protection and that where an adverse noise impact occurs it is always identified whether it is an individual dwelling or forms part of a larger community.</p>
	<p>The cumulative effect of high LAMax noise levels is fully assessed in particular to the potential impact on sleep disturbance</p>	<p>The cumulative effect of high LAMax noise levels is fully assessed in particular to the potential impact on sleep disturbance</p>
	<p>We request HS2 Ltd to monitor actual noise levels once the railway becomes operational so the readings can be compared with the predicted noise levels during design. This may require further / additional mitigation by HS2 Ltd.</p>	<p>We maintain the need for HS2 to monitor actual noise levels once the railway becomes operational in order that any requirement for additional mitigation can be identified.</p>
	<p>Construction</p>	
	<p>We have significant concerns regarding construction noise. We expect HS2 Ltd to work closely with all Local Authorities to ensure consistent and co-ordinated responses can be made to Section 61 consents.</p>	<p>Please refer to specific Code of Construction Practice consultation comments - however in summary the document lacks credibility.</p>
	<p>We have strong concerns regarding the construction impact on Streethay from the Cappers Lane compound and Streethay construction sidings.</p>	<p>Although the area and layout for the proposed construction compound and sidings has been amended, we maintain concerns about the impact on Streethay and in particular the users of the Coventry Canal and Kings Orchard Marina.</p>

Item 7 Appendix B

Document:		Volume 5: Land Quality
Page and paragraph reference	SCC previous comment in response to the draft Environmental Statement (if appropriate)	Full Environmental Statement Comment
ES Volume 2 paragraph ref's for CFA 21 & 22 Reports		These comments apply equally for land quality issues within Community Forum Areas 21 & 22 plus the off-route effects (ES Volume 4) between Lichfield and Colwich
8.1.7		Confirmation that engagement has been undertaken with Lichfield DC.
8.4.1		The control of any contaminated material is largely reliant on the measures contained within the draft Code of Construction Practice. Please refer to specific CoCP consultation comments - however in short the document lacks credibility.
8.4.2		Correct standards cited for further investigations.
8.4.3		It is critical that any Remediation Strategies are consulted as stated with Lichfield Dc environmental health.

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Document:	Volume 5: Air Quality
Page and paragraph reference	Full Environmental Statement Comment
<p>ES Volume 2 paragraph ref's for CFA 21 & 22 Reports</p>	<p>These comments apply equally for air quality issues within Community Forum Areas 21 & 22 plus the off-route effects (ES Volume 4) between Lichfield and Colwich</p>
<p>4.1.2</p>	<p>Agree that main issue is dust during the construction phase</p>
<p>4.2.3</p>	<p>Totally disagree that a lower scale of effect should apply to less than 10 properties, and discount totally a significant effect on a single property. Other Regulatory regimes recognise impact on single or small number of properties (Statutory Nuisance, Local Authority Planning, Local Air Quality Management). HS2 should amended its air quality assessment to include effects on single and small numbers of properties.</p>
<p>4.4.1</p>	<p>The control of construction generated dust is solely reliant on the measures contained within the draft Code of Construction Practice. Please refer to specific CoCP consultation comments - however in short the document lacks credibility.</p>

Document:	Code of Construction Practice
Page and paragraph reference	Full Environmental Statement Comment
	<p>These comments apply equally for noise & vibration issues within Community Forum Areas 21 & 22 plus the off-route effects (ES Volume 4) between Lichfield and Colwich</p>
	<p>The Code of Construction Practise is a significant document and is referred to throughout the ES as the method of controlling construction impacts on residents. It is the key document, for example, in controlling construction noise, dust and land contamination. It boasts how local environmental teams will liaise with the communities and develop local solutions to control construction impacts. The documents credibility comes from the proposal to place these measures into a legal consent agreed by the local authority (S61, COPA 1974). All of the above is acceptable and is an approach that has been used within Staffordshire successfully (subject to good local management!) in the past for projects such as the construction of the M6 Toll Road and widening of the West Coast Main Line from two to four tracks. However, there are additional measures that are not being consulted on. These are contained in Schedule 25 of the Hybrid Bill and are provisions that fundamentally flaw the CoCP and give it no credibility. These provisions are to change the S61 consent appeal process from being with the courts to referring it back to Government. The provisions also make the project immune from Statutory Nuisance, subject to a S61 being in place. Diverting the appeal route of a Government project from the independence of the courts to themselves leaves the CoCP with no credibility. HS2 should remove the Schedule 25 provisions form the Hybrid Bill to reinstate the credibility of one of the most important documents of the ES.</p>