

High Speed 2 Phase 1, Petitioning the Hybrid Bill– Report of the Cabinet Member for Economic Growth and Development



Date: 1st April 2014
 Agenda Item:
 Contact Officer: Craig Jordan
 Tel Number: 01543 308202
 Email: craig.jordan@lichfielddc.gov.uk
 Key Decision? YES

CABINET

In accordance with Section 100B (4)(b) of the Local Government Act 1972, the Chairman of the Economic Growth, Environment and Development (Overview & Scrutiny) Committee determined that this item be considered as a matter of urgency in order to meet the Parliamentary deadline for Petitioning. This decision is an urgent decision under Section 16 of the Access to Information Rules and is not subject to call in, in accordance with Section 16.3 of the Overview and Scrutiny Procedure Rules.

1. Executive Summary

The Government is proposing to develop a high speed rail line between London and the West Midlands – High Speed 2 Phase 1 – as part of a wider high speed rail network. On the 25th November 2013 a Hybrid Bill relating to High Speed 2 Phase 1 was deposited in Parliament – enactment of the Bill will give the Government the powers to build and operate a high speed rail line as proposed. This report addresses the issue of petitioning the Hybrid Bill and follows on from reports presented to the Cabinet on the 3rd December 2013 and the 14th January 2014.

2. Recommendations

2.1 It is recommended that the Cabinet:

- agrees to the principle of petitioning the High Speed Rail (London-West Midlands) Bill and recommends to Full Council that this decision be endorsed; and,
- acknowledges the likely costs involved in petitioning and subject to Council confirming the intention to petition, identifies the need for funding to cover these costs; and,
- delegates authority to the Cabinet Member for Economic Growth and Development in consultation with the Strategic Director for Democratic, Development and Legal Services to coordinate the petitioning of the Hybrid Bill before Parliament.

3. Statement of Reasons

- 3.1 High Speed 2 is a Government backed and promoted proposal to develop a high speed rail line between London and the West Midlands (Phase 1) with later spurs to Manchester and Leeds (Phase 2).
- 3.2 In January 2012 the Secretary of State for Transport announced a preferred route for Phase 1 with the line running from Euston in Camden, London to a point just south of Handsacre in Lichfield District, where there would be a connection with the existing West Coast Mainline. Approximately 12 miles of the preferred route lies within Lichfield District, the only part of Staffordshire impacted upon by Phase 1.
- 3.3 Following the announcement regarding Phase 1 formal public consultation took place. Lichfield District Council objected both to the principle of high speed rail and to the proposals for HS2 as it affected the environment, residents and businesses of the District. The view expressed was that the proposal

would have serious adverse impacts on the countryside and certain villages/hamlets but offer no economic benefit locally. These concerns were shared by local communities, interest groups set up to oppose HS2 and Staffordshire County Council.

- 3.4 Since the original announcement HS2 Limited on behalf of the Government has developed a detailed route design and been evaluating the impacts of this. Based on the original timescales the Government was aiming to deposit a Hybrid Bill late 2013, attain Royal Assent by early 2015, commence development in 2017 and open the new line by 2026.

Hybrid Bill

- 3.5 A Hybrid Bill covering Phase 1 of High Speed 2 was formally laid before Parliament and had its first reading on 25th November 2013. Details of the Bill are set out at **Appendix A**.
- 3.6 The next stage of the parliamentary procedure will be for the second reading to take place at which point Members of the House of Commons (MP's) will decide whether or not the principles of the Bill are acceptable and if confirmed, the proposals can go forward for detailed scrutiny. It is understood that the Bill will receive its second reading on or around the 29th April 2014. If MP's do decide to progress the Bill, a select committee of MP's will be set up to determine whether the Bill is appropriate as deposited or needs to be changed in any way. One of the first tasks following the second reading of the Bill and on the assumption that the Bill is allowed to go forward would be for a call to go out for petitions to be lodged by interested parties.

Petitioning

- 3.7 From the announcement in January 2012 of a preferred route to the preparation of route designs and the evaluation of the impact of these, the District Council along with the various bodies named above, has maintained a strong and principled objection to the proposed development of a high speed rail line between London and the West Midlands. Whilst, holding the view that the principle of HS2 is wrong efforts have been made by the District Council working with partners to ensure that if the development is approved and takes place then the impacts are fully and appropriately mitigated. Although much effort and time has been expended to influence the final route design and proposed mitigation measures, the proposals contained in the Hybrid Bill do not fully address the concerns articulated by local residents, this Council or Staffordshire County Council.
- 3.8 The Hybrid Bill offers the only opportunity for local authorities, local communities, individuals and other interested parties to challenge the Government's proposals and seek to have changes made to the proposed scheme. This process is known as 'Petitioning' which involves a formal notice being made to Parliament by an affected party to have their views heard by a Select Committee and then subject to that wish being acceded to by Parliament, that party duly presenting its case.
- 3.9 On 12th December 2013, Staffordshire County Council took the decision to formally petition the Hybrid Bill. It has appointed Parliamentary Agents and legal Counsel to act on its behalf in this process and committed monies to cover the costs of seeking changes to the Bill. These costs are substantial and assume that notwithstanding discussions that will take place prior to any Select Committee to address issues raised, the County Council will need to follow this route to have any chance of influencing the final Bill as it is then enacted.
- 3.10 At the 14th January 2014 Cabinet meeting, the issue of petitioning by the District Council was considered. The position of Staffordshire County Council was noted and on the basis that the two authorities shared the same concerns over the contents of the Bill and were continuing to work collaboratively, to petition on the part of the District Council was seen as not necessary nor justified.

This would be a duplication of time, effort and resources. The Cabinet duly resolved not to petition itself but to support the County Council.

- 3.11 Since January more information has become available about the nature of petitioning and in the specific case of High Speed 2 further arguments introduced as to the case for and against petitioning where groups, organisations and local authorities remain concerned about the contents of the Hybrid Bill.
- 3.12 One of the key pieces of information relates to the interests of those seeking to petition. When the Select Committee comes to deciding whether or not to accept a petition it will want to establish what the interest is of the petitioner. If the Committee does not believe that a petitioner has a direct link to the matter being raised under the petition, it can disallow the petition and prevent the petitioner being heard. Parliamentary Agents have advised that this 'rule' applies to any prospective petitioner and is intended to ensure the process of petitioning is not abused. Regarding HS2 and the Hybrid Bill the proposals impact upon individual landowners, local communities and local services and infrastructure. Staffordshire County Council has been advised that whilst it is appropriate for it to petition generally being a local authority covering the area within which part of the Phase 1 route will be built and operate, the Select Committee may wish to enquire as to the specific grounds that SCC are using to justify this approach. This questioning is unlikely to occur however where the County is raising issues about matters which it as the County Council has direct responsibility for e.g. Highways/transportation matters. This is relevant to the case for the District Council being a petitioner as there are matters which the County Council is wishing to petition on which lie outside its areas of responsibility but are the responsibility of the District Council e.g. Planning, Noise etc. The view of Parliamentary Agents is that to avoid problems occurring at the Select Committee stage and to ensure that issues such as those that would fall within the remit of the District Council are presented and heard, the District Council should be seeking to petition.
- 3.13 In addition to the County Council, it is understood that a number of Parish Councils and individual land and property owners within the District are intending to petition and indeed have set in train the process for being able to petition, assuming the Bill passes its second reading. At meetings held to consider potential petitioning items a strong view has emerged that to make the best case for Lichfield District and its local communities, the local authorities, land/property owners and the various HS2 local groups need to be working together.

Petitioning Process – How can the District Council Petition?

- 3.14 Petitioning against a Parliamentary Bill requires specialist knowledge and expertise in drafting the petition and presenting this to the Select Committee. Parliamentary Agents are solicitors approved by the House of Commons and Lords to undertake this work on behalf of bodies seeking to petition.
- 3.15 Staffordshire County Council has appointed Sharpe Pritchard as its Parliamentary Agents to advise and assist on HS2. To inform this report the District Council has also been in discussions with the same company on a without prejudice basis.
- 3.16 There is a statutory requirement under Section 239 of the Local Government Act 1972 for local authorities to obtain the authority of Full Council to deposit a petition in Parliament against a local or private bill. A Hybrid Bill is considered to fall within the remit of Section 239.
- 3.17 There is also a requirement for the Full Council meeting to be advertised and for at least half the members of the Council to vote in favour of the resolution (note half the Council membership not half of those attending the meeting). The advert has to be placed in the local press at least 10 clear working days before the meeting and notify interested parties as to the intention of the Council to consider the matter of petitioning.

- 3.18 If a decision is duly made and approved to petition, the District Council would seek to formalise an arrangement to use the services of Sharpe Pritchard.
- 3.19 As mentioned above, following the second reading a formal call for petitions to be submitted to Parliament in respect of the Bill will go out. Based on previous experience it is likely that the period for petitioning will commence very shortly after the second bill reading and last for a short period of time (perhaps only two weeks). This would mean petitions would need to be submitted by early to middle of May and consequently if Cabinet recommend petitioning a special meeting of Full Council would need to be called toward the end of April.

Costs

- 3.20 Costs would be incurred in appointing Parliamentary Agents to advise the District Council on petitioning issues, draft and submit the petition and for assisting in making the Council's case at Select Committee stage. The Parliamentary Agents would also support the District Council in discussions with High Speed 2 Limited on issues prior to Select Committee stage where there could be the prospect of reaching agreement and thus preventing the need for a matter(s) to be taken forward. Although it is difficult to judge specifically the costs likely to be incurred for the aforementioned, the District Council has been quoted £5-10,000 for drafting and submitting a petition, an additional sum of upto £15,000 for acting for the Council in matters leading up to Select Committee stage with a further amount on top of this up to £40,000 for work involved at the Select Committee stage. These figures assume that the District Council would be engaging Sharpe Pritchard who are already working with Staffordshire County Council. This would enable costs to be paired back to reflect a shared arrangement.
- 3.21 The other area of potential expense would be the possibility of having to appoint legal counsel to appear at the Select Committee. Advice on this would need to be taken at a later date but it should be noted that the County Council has engaged legal counsel and under any joint working arrangements the District Council may wish to explore the scope to utilise this resource if necessary and appropriate.
- 3.22 Prior to the Select Committee stage it is normal procedure for a Bill promoter to seek to reduce the level of objections or matters to be discussed before the Committee. It is expected that moving toward the second reading HS2 Limited will be seeking confirmation of likely petitioning issues from interested parties and depending on the nature of these issues aiming to resolve them. This potentially could lower overall costs to the District Council and other bodies.

Petitioning issues

- 3.23 As members will be aware from previous reports, the Hybrid Bill and the proposals contained within it raise a number of concerns. These in summary relate to the impact of the route on the landscape and amenity of Lichfield District and the effects on local communities of the route's construction and subsequent operation. In many parts along the route, HS2 will be very prominent in the landscape particularly where it is on viaducts and embankments. It will result in the loss of existing properties some of them in commercial use and also the destruction of important nature conservation assets.
- 3.24 Work is currently on-going to determine the number of petitioning issues which could in theory be taken forward. Of these there are some major/key areas which all parties in Staffordshire are keen to see addressed at Select Committee stage or before. These include the following:
- Putting the route in cut and cover tunnels at Hints and Whittington Heath Golf Club
 - Putting the route under the A38, West Coast Main Line and South Staffordshire Railway near Streethay
 - Mitigating the effects of the route as it impacts upon the Trent and Mersey Canal

- Addressing the issue of loss of existing residential properties at Flats Lane/Knox Grave Lane near Whittington/Weeford
- Seeking appropriate highway improvements at Wood End Lane, Fradley
- Improved biodiversity and ecological mitigation
- Improved construction operations including the routeing of construction traffic

The County Council and its advisors are working with other partners to scope out a list. However, it can be seen from just the above that there are matters which would potentially fall to the District Council to lead on.

Community Benefits	<ol style="list-style-type: none"> 1. There is significant opposition to the Government's proposals to develop High Speed 2 and the plans to extend this with Y links northwards to Leeds and Manchester as part of Phase 2 of a wider high speed network. There are however many groups and organisations and local authorities that support High Speed 2 and high speed rail generally. The District Council and local groups have voiced concerns and particularly at the claims that High Speed is justified on the basis that it will bring about economic benefits to the West Midlands and beyond. This view is not supported and more importantly it is considered that the adverse environmental implications for Lichfield District and local communities will be substantial.
Views of Overview & Scrutiny	<ol style="list-style-type: none"> 1. The contents of this report have not been considered by the Economic Growth, Environment and Development (Overview and Scrutiny) Committee. The Committee however has been continually updated on HS2 matters since the original proposals were put forward.
Alternative Options	<ol style="list-style-type: none"> 1. The Cabinet could decide not to petition the Hybrid Bill and confirm its position agreed on the 14th January 2014.
Consultation	<ol style="list-style-type: none"> 1. In opposing HS2 in principle and seeking appropriate mitigation if the project is approved by Parliament, the District Council has been working closely with Staffordshire County Council, local HS2 Groups, Parish Council's and respective affected property and landowners.
Financial Implications	<ol style="list-style-type: none"> 1. As set out in paragraph 3.20. This would be funded from general reserves.
Strategic Plan Implications	<ol style="list-style-type: none"> 1. The development of High Speed 2 would not accord with the objectives of the Strategic Plan for Lichfield District unless as a consequence of its development the scheme would generate jobs and wealth creation in the District and have no adverse environmental impacts.
Sustainability Issues	<ol style="list-style-type: none"> 1. None in this report.
Human Rights Issues	<ol style="list-style-type: none"> 1. None in this report
Crime & Safety Issues	<ol style="list-style-type: none"> 1. None in this report

4. Risk Management

	Risk Description	Likelihood / Impact	Status	Countermeasure
A	Failure to petition the Bill	Low/High	Reputational, Social, Economic, Financial Environmental	LDC officers and members continue to support Staffs. CC and other local interested parties in their petitioning of the Hybrid Bill and engage with HS2 Limited to seek resolution of matters prior to Select Committee stage.

Background documents

The High Speed (London – West Midlands) Bill Nov. 2013
 Staffs CC Cabinet Report – November 2013
 Staffs CC Council Report – December 2013
 Correspondence received from Sharpe Pritchard – Parliamentary Agents March 2014

Relevant web links

www.hs2.org.uk

High Speed Rail (London – West Midlands) Bill: The Bill and Procedures

The Hybrid Bill was presented to Parliament and had its first reading on the 25th November 2013. The second reading is expected to take place on or around the 29th April 2014

The Bill sets out proposals for the development of a high speed rail line between Camden, London and Lichfield District, Staffordshire. The Bill provides for the necessary powers to construct and subsequently operate the proposed rail line. Parliament will now consider the principles of a high speed rail route and the detailed impacts of this on affected communities, organisations and individuals and decide whether or not the Bill should be duly enacted. Parliament could decide that in its present form the Bill should not progress or if it is to be enacted what changes to the Bill need to be made.

The Bill and accompanying material:

- The Hybrid Bill includes the Bill itself setting out schedules which detail the proposals and the land that will need to be acquired and/or used to facilitate the development and operation of the rail line. Explanatory Notes are also provided to explain/amplify parts of the Bill.
- Plans and sections which show the location and profile of the proposed scheme
- A Book of Reference, which describes ownerships of all land interests affected by the proposals
- Supporting documents including a Housing Statement, Estimate of Expense, Equalities Impact Assessment, Health Impact Assessment, Alternatives Report
- Environmental Statement, which explains in detail the impacts of the proposals along the whole route and the steps to be taken to mitigate those impacts. The ES is split into a number of volumes and linked appendices.
 - i) Volume 1 Non-technical Summary
 - ii) Volume 2 26 separate reports relating to the proposals and their impacts/proposed mitigation by Community Forum areas – Report 21 covers Drayton Bassett to Whittington, Report 22 Whittington to Handsacre
 - iii) Volume 3 Route Wide effects
 - iv) Volume 4 Off-route effects
 - v) Volume 5 Appendices and Map Books; mainly considering certain topics in detail including traffic, Cultural Heritage, Code of Construction Practice etc.

The aforementioned material has been placed on public deposit and lodged with relevant local authority's along the route of the proposed line (in hard copy format and electronically via a memory stick). The information is also available on-line at www.hs2.org.uk.

Consultation on the ES took place between November 2013 and February 2014. The results of the consultation are due to be reported to Parliament before the second reading takes place.