

High Speed Rail 2 – Additional Provision (phase 2a) and Environmental Statement Consultation

Report of the Cabinet Member for Economic Growth, Environment & Development Services:
Councillor I. Pritchard



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Agenda Item: 5
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Key Decision? YES
Local Ward Members Cllr S. Barnett, Cllr R. Cox, Cllr T. Marshall, Cllr I. Pritchard, Cllr B. Rayner, Cllr M. Stanhope, Cllr M. Tittley, Cllr M. Wilcox.

CABINET

1. Executive Summary

- 1.1 In July 2018, the Government deposited a Bill seeking powers to construct and operate the proposed phase of HS2 linking Fradley in the West Midlands and Crewe in Cheshire (Phase 2a).
- 1.2 The Government has proposed a number of changes to this proposed route.
- 1.3 Certain changes can be made within the existing scope of the Bill and a Supplementary Environmental Statement 2 has been prepared and deposited in Parliament.
- 1.4 This report addresses the issue of petitioning against Additional Provision 2 (an additional provision seeks to allow the promoters of the Bill to extend its scope. It is a package of proposed amendments to a Bill) and responding to the environmental statement consultation. This follows on from the Cabinet reports on 5th September 2017 and 5th December 2017 associated with the Hybrid Bill.

2. Recommendations

- 2.1 The portfolio holder for Economic Growth, Environment & Development Services in consultation with the Head of Economic Growth be given delegated authority to agree to a joint response with Staffordshire County Council and other local authorities;
- 2.2 Table 1 be submitted to Staffordshire County Council to assist in developing the joint response;
- 2.3 That Cabinet agree to continue with petitioning the Hybrid Bill in relation to the Common Lane issue;

3. Background

- 3.1 High Speed 2 (HS2) is a Government backed 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 Phase 2a relates to the extension of Phase 1 from Lichfield District in the West Midlands to Crewe in Cheshire. Phase 2b is the route which will extend from Phase 1 up to Leeds via Nottingham and Sheffield.

- 3.3 On 30 November 2015, George Osborn (then Chancellor) confirmed the acceleration of the western leg of the route from West Midlands to Crewe, referred to as Phase 2a.
- 3.4 In July 2018, the Government deposited a Bill seeking powers to construct and operate the proposed phase of HS2 linking Fradley in the West Midlands and Crewe in Cheshire.
- 3.5 The Bill was accompanied by an Environmental Statement ('the main ES') that reports the environmental impact of the planned new railway.
- 3.6 On the 5th December 2017 Lichfield District Council Cabinet agreed to object to the HS2 Bill by way of petitioning. This was undertaken jointly with Staffordshire County Council, through the use of parliamentary agents Sharpe Pritchard (see paras 3.23 – 3.24 for more information).

Additional Provision 2, the Environmental Statement and the Supplementary Environmental Statement

- 3.7 The Government has proposed a number of changes to the proposed HS2 route between the West Midlands and Crewe.
- 3.8 Certain changes can be made within the existing scope of the Bill and a Supplementary Environmental Statement 2 (SES2) has been prepared and deposited in Parliament. This reports on the likely significant environmental effects of this group of changes.
- 3.9 There are a number of other proposed changes that will require amendments to the Bill which are outside the original proposals and are contained within Additional Provision 2 (AP2). The AP2 Environmental Statement (AP2 ES) reports on the likely significant environmental effects of the amendments included within the AP. Both the AP2 and the AP2 ES have also been deposited in Parliament.
- 3.10 The Supplementary Environmental Statement 2 (SES2) and the Additional Provision 2 Environmental Statement (AP2 ES) are separate environmental statements.
- 3.11 The SES2 (Part 1) reports on the likely significant environmental effects of updated environmental information, changes to the design and construction scheme assumptions within the existing powers and limits of the Bill.
- 3.12 The AP2 ES (Part 2) reports on the likely significant environmental effects of the amendments in the AP (i.e. amendments to the Bill which are outside the scope of the existing powers and limits of the Bill).
- 3.13 The key changes can be summarised as (not all directly impact Lichfield District):
- Design and construction assumptions include (SES2):
 - A review of the earthworks and movement of materials, taking into account changes in design and opportunities to reduce the overall surplus of excavated materials that would need to be transported by road. This has resulted in changes across the whole route, which include identifying 17 sites for the local placement of surplus excavated material on land already required for construction; The sites of specific relevance to Lichfield District are:
 - On the south side of Pipe Ridware embankment, extending east and west across the stopped-up section of Pipe Lane, north-east of Quintons Orchard, and a retained section of Pipe Lane. Existing hedgerow, adjacent to the stopped –up section of Pipe Lane, will be lost and re-provided along the existing alignment.

The material will be regraded so that it can be returned to agricultural use (SES2-001-004).

- Surplus excavated material will be placed permanently to the north and south sides of Blithbury South and Blithbury North cuttings. One area for the placement of surplus excavated material will be located to the south-east of the Newlands Lane auto-transformer feeder station to the north of the HS2 route, and two areas will be located to the south-east and south-west of the Newlands Lane auto transformer feeder station to the south of the HS2 route. The material will be graded so that it can be returned to agricultural use (SES2-001-007).
- Surplus excavated material will be placed permanently to the south of Moreton South embankment, north of Jonghams Lane. Existing hedgerow, which separates the temporary stockpiles, will be lost as a result of the placement of surplus excavated material. The hedgerow will be re-provided along its existing alignment. The material will be graded so that it can be returned to agricultural use (SES2-001-008).
- Changes to assumed borrow pit depths based on additional historical information relating to likely ground conditions and changes to the design of a number of borrow pits relating to the recharge of groundwater; diversion of watercourses; and/or the reduction in the area of borrow pits to allow for utility works. In addition, hydrogeological models have been developed for the relevant borrow pits;
- Changes to the construction programme. These take account of refinements to construction methods and changes to earthworks and the movement of materials;
- Changes to a number of railway systems compounds required for the installation of a slab track formation relating to operational characteristics such as construction duration, worker numbers and traffic movements; and
- Additional utility works and the provision of associated construction compounds.
- Other changes that can be made within the existing powers of the Bill and are reported in the SES2, include:
 - Lowering of Kings Bromley viaduct, Bourne embankment and River Trent viaduct;
 - A noise attenuation bund for 9 residential properties at Woodhouse Farm will be provided within land between Pipe Ridware embankment and Pipe Lane, up to 9.5m in height from ground level (SES2-001-005);
 - Relocation of a balancing pond;
 - Extension of a noise fence barrier;
 - Landscape earthworks in the vicinity of the Stone Infrastructure Maintenance Base-Rail (IMB-R);
 - Increase in length and changes to the design of the M6 Meaford Viaduct;
 - Reconfiguration of the existing West Coast Main Line (WCML) tracks between the A500 Shavington Bypass and Madeley Bridleway 2;
 - New construction traffic routes and new permanent farm access routes; and
 - Changes to environmental mitigation.

3.14 The AP2 petitioning period commenced on Friday 8 February and the last date for depositing a petition against the proposals is 15:00 on Friday 15 March. In relation to the SES2 and AP2 ES the consultation runs until 23:45 on Friday 29 March 2019.

Matters for the Cabinet to consider

3.15 Table 1 identifies the fundamental points that arise for Lichfield District as a result of AP2, AP2 ES and SES2.

Table 1: Lichfield District Council comments on AP2 AP2ES and SES2

Matter	Comment
A	<p>The closure of Common Lane is unsatisfactory. This is a point the Council have previously petitioned on. The petitioning was undertaken because it appeared that HS2 Ltd were intending to close Common Lane for a period of five years, without a substitute.</p> <p>The Phase 2A Bill as introduced gives power to the nominated undertaker to stop up Common Lane permanently where the proposed railway crosses it at Barn Farm, near to its junction with the A515 Lichfield Road at Riley Hill Farm¹. Because the closure is mentioned in table 1 in Schedule 5 to the Bill, no substitute road is to be provided. If it had been mentioned in table 2 of Schedule 5, it could not happen until the date on which a substitute road is first open for public use².</p> <p>The effect of the closure without a substitution would be that traffic which needed to get onto the main road network would, instead of going roughly south along Common Lane onto the A515 at the Riley Hill Farm junction, would instead have to go roughly north along Common Lane and Crawley Lane to the junction at Kings Bromley, at the point where Richard Crosse Primary School is located.</p> <p>As well as bringing traffic to the school, large farm and HGV vehicles would be directed to the centre of the village which is under a Traffic Order restricting the movements of HGV vehicles.</p> <p>HS2 Ltd provided the following assurance (as part of a wider package):</p> <p style="text-align: center;">Common Lane</p> <p><i>22 (a) Recognising Staffordshire County Council's request for Common Lane to not be permanently stopped up and subject to the satisfaction of the condition in paragraph (b), the Secretary of State will require the nominated undertaker to design and construct a permanent alternative vehicular route between Common Lane and A515 Lichfield Road to the north of the Proposed Scheme to replace that part of Common Lane which is to be permanently stopped up under the Bill between points P6 and P7 on Sheet No. 1-05 of the plans deposited with the Bill ("the Alternative Route").</i></p> <p><i>(b) The assurance in paragraph (a) is subject to the successful promotion of an amendment to the Bill through the introduction of an Additional Provision, and any requisite environmental information, which confers on the Secretary of State the land and works powers to acquire compulsorily the additional land required for the provision of the Alternative Route and to construct the Alternative Route.</i></p> <p><i>(c) The Promoter will use reasonable endeavours to promote the Additional</i></p>

¹ Schedule 4, paragraph 2(1) and Schedule 5, table 2

² Schedule 4, paragraph 2(3)

Matter	Comment
	<p style="text-align: center;"><i>Provision referred to in paragraph (b).</i></p> <p>Therefore while there is an assurance which includes the provision for a new link road there will be a period of 5 years during the construction period when Common Lane will be closed, and the new substitute road will not be available until then. This is not considered a satisfactory solution and it is considered necessary to enter into further petitioning. The primary concern relates to HS Ltd interpretation of the assurance and undertaking.</p>
B	<p>Routing of traffic along Wood End Lane in respect of the Land at Watery Lane Planning permission.</p> <p>This is considered a matter for the highways authority to comment upon. Lichfield District Council would wish to ensure that the positive engagement with the developer of this site and HS2 Ltd continues to ensure the delivery of this development.</p>
C	<p>Akin to the above, the changes indicate that on Wood End Lane there would be substantial hedgerow loss. The Council's analysis of these hedgerow losses is that it is unclear whether these are to be translocated, translocated 'if possible', or removed and replaced. This is a matter that requires clarification.</p>
D	<p>A detailed analysis of the consultation indicated that a section of Tomhay Wood (Ancient Scheduled Natural Woodland (ANSW)), adjacent to Wood End Lane may be required for widening. This does not appear to be addressed. This is a matter that will need to be clarified and if appropriate addressed adequately.</p>
E	<p>A concern raised by the Council previously related to the use of the Rugeley Power Station site as a source of Power. This consultation provides a solution to alleviate the Council's concern in this regard. However the changes do present some potential landscape and natural environment concerns. There will be a number of pylons required (circa 38m tall), plus substantial land take for the Parkgate Transformer Farm arises from the need to provide supply.</p> <p>A pertinent issue here is the potential for landscape impact which the County Council will provide further guidance on. As a general point the inclusion of new overhead powerlines will have an impact of views.</p>
F	<p>The hedgerow and woodland impacts at the revised spur arrangement at Handsacre require clarification.</p>
G	<p>Bishton Lane is likely to result in impact on hedgerows, with the 'proposed hedgerow habitat creation'.</p>
H	<p>The landscape assessment proposes no additional mitigation. 5.15.256: Construction of the amendment will give rise to a higher magnitude of change on the landscape character of the Bromley Park Plateau farmland Landscape Character Area than is currently the case and will potentially result in additional major adverse significant effect.</p>
I	<p>Construction of two pylon lines will require removal of vegetation along Newlands Lane to enable vehicular access to the crane pads. Lichfield District Council were given assurances regarding the retention and safeguarding of Noddys Oak, a veteran tree alongside Newlands Lane. Since the requirements and design have changed it is necessary to ensure these assurances are maintained to make certain the veteran Oak in question is not affected.</p>
J	<p>It is essential that the changes arising from AP2 take account of their impact on European designated sites. In this regard the supporting documents will need to include a Habitat Regulations Assessment. This is a matter that Natural England are best to advise upon.</p>
K	<p>The overall levels of Nitrogen Dioxide emissions as a result of HS2 Phase 2a are reduced as a result of changes. However the baseline levels have increased, due the method of calculating baseline levels. The decrease is welcomed, however the impact of Nitrogen</p>

Matter	Comment
	Dioxide is a critical point in the context of the Council's comment at Matter J.
L	Some of the changes associated with noise will most likely result in improvements in noise levels, this is commended.
M	It is apparent that limited ecological surveys have been conducted across the proposed additional provision and amendment areas.
N	<p>The ecological information provided by HS2 at this time is incomplete with a number of areas along the proposed route having only partial protected/priority species and habitat data. As such it is clear HS2 have not applied best practice and worked to the mitigation hierarchy as would be expected by a national infrastructure project. In the absence of such information, HS2 are proposing mitigation/compensation without having a clear understanding of what their impact is. In these areas of the project where there is currently a dearth of ecological understanding HS2 has adopted a 'worst case scenario approach' (however it remains unclear how they have reached the determination of what represent an ecological 'worst case'). The worst case scenario approach is appropriate for impact assessment but not for the approach to avoidance, minimisation and mitigation, as it does not meet the 2017 EIA Regulations requirement to demonstrate reduction and avoidance of impacts. Where important features e.g. veteran trees and important hedgerows are outside the construction footprint but could potentially be affected by construction route widening, the ES should make clear measures required to protect these. Also it is apparent that within Lichfield District there are further opportunities for avoidance and reduction of ecological impact and these have not been considered.</p>
O	<p>It is recognised that HS2 Ltd are assessing biodiversity impact using their own bespoke quantitative assessment metric and that their proposed target of 'no-net-loss' to biodiversity value is to only be achieved at a route wide level. However it is to be noted that based upon the information supplied in the Phase 2a Supplementary ES that the Lichfield District is likely to suffer a notable net-loss to its biodiversity value (i.e. net-habitat value) should the project proceed as stated. It is apparent that even in situations where the ES details compensatory habitat creation to account for losses of notable habitat (UK BAP habitats) the compensation is likely to result in notable net-loss. This is due to compensatory habitat within Lichfield District only being described in terms of size (ha). This means the loss of a 10ha priority habitat will (in some cases but not all) be compensated for via the creation of 10ha of same habitat type elsewhere within the boundary of the Hybrid Bill. This is presented as a no-net-loss scenario with the ES but it is considered to represent a notable net-loss. This is because of two factors not recognised within the ES:</p> <ul style="list-style-type: none"> • Failure of the ES to recognise the existing biodiversity value of a donor site prior to compensatory habitat creation occurring upon it. • Failure of the ES to recognise any temporal factor in the creation of compensatory habitat (i.e. when creating woodland a minimum of 20 years should be considered necessary to allow for its establishment and to reach a biodiversity value similar to

Matter	Comment
	the established woodland that has been lost and compensated for).

Next steps

- 3.16 The Council has previously worked closely with Staffordshire County Council in petitioning and responding to the Environmental Statements. This has worked effectively with both parties being successful in securing positive changes to the HS2 proposals. Continuing with this approach is considered the most effective way forward. In part due to its effective success in the past, but also there are benefits to both Authorities working collaboratively because of the specialists skills within each Authority.

Petitioning

- 3.17 From the original announcements in January 2012 of the Government's intentions to progress with proposals for a High Speed rail network the District Council has maintained a strong and principled objection. It is not considered that the project will deliver economic benefits to residents and businesses in the District and more so will result in harm to the local environment and amenity. Whilst of this view the Council has accepted that ultimately decisions over Phase 1 and Phase 2 are not ones being made locally but by Parliament and therefore local concerns may well be overridden. In the circumstances it has been recognised that the most appropriate approach is to seek to maximise any benefits that could come from HS2 and minimise the adverse impacts. It is in this context that officers of the District Council have worked with partners to engage with HS2 Limited to ensure that the detailed aspects of Phase 1 and now Phase 2a take account fully of social, environmental and economic concerns relevant to the project and Lichfield District.
- 3.18 Although much effort and time has been expended to influence the route design and proposed mitigation measures for Phase 2a, as with Phase 1a the proposals contained in the Phase 2a Hybrid Bill did not fully address the concerns articulated by local residents, this Council or Staffordshire County Council.
- 3.19 The Hybrid Bill offered an 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 document being drafted and sent to Parliament by an affected party and then subject to the affected party establishing that it has sufficient standing, that party duly presenting its case to the Select Committee in the Houses of Parliament.
- 3.20 In April 2014, the District Council took the decision to formally petition against the HS2 Phase 1 Hybrid Bill. In doing so members will recall that the process delivered some positive results with the line of route now planned to go under rather than over the A38, West Coast Main Line in a cutting at Streethay, a lowering of the height of the route generally through the District and changes meaning the protection of the Trent and Mersey Canal and its surrounds.
- 3.21 In the report considered by the Cabinet on 5th September 2017 the concerns regarding the Hybrid Bill and associated proposed mitigation were identified. It is these matters that were considered on 5th

December 2017 and were subject to petitioning by the Council.

- 3.22 In deciding whether or not to petition on AP2 the Council will have to consider the nature of its concerns but also why it has an interest in these matters. This latter point is important as when the Select Committee comes to deciding whether or not to hear a petitioner's case it will want to establish that the petitioner is "specially and directly affected". If the Committee does not believe that a petitioner is so affected, it can prevent the petitioner being heard if its standing is challenged by the promoter. 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.

How can the District Council Petition?

- 3.23 If Cabinet were minded to petition there is already a Council approval in place to facilitate this. The AP2 is a component of the Hybrid Bill. On 19 December 2017 Council approved petitioning the Hybrid Bill which enables Cabinet to petition the AP2. The District Council has previously used the service of Sharpe Pritchard as its Parliamentary Agents. Parliamentary Agents are solicitors approved by the House of Commons and Lords to undertake this work on behalf of bodies seeking to petition.

Making a response to matters which do not require petitioning

- 3.24 With the exception of point A the matters identified within Table 1 do not indicate the need to petition on AP2. AP2 is an addition to the Hybrid Bill, on this basis the resolution made by Full Council enables Cabinet to approve petitioning on the AP2. However the Council are still able to respond to the Environmental Statements. Matters B - O raised within table 1 are considered best addressed through feedback to the environmental statement consultation.
- 3.25 It is essential that were the Council of the view that the points raised under the original petitioning are not adequately addressed then further petitioning be agreed. This is considered the pertinent point for matter A in table 1.

Alternative Options	<ol style="list-style-type: none">1. Cabinet could decide not to formally petition regarding matter A in table 1. This is not recommended because this may result in an unsatisfactory resolution to a matter the Council have previously petitioned on.2. Cabinet recommends to not provide the comments at table 1 to the County Council to assist in informing their response. This would result in a vacuum of information that should inform the Environmental Statement consultation.3. The Council could decide to support other bodies who decide to petition. At the time of writing officers are not aware of any other organisations that are petitioning on points that would warrant Lichfield District Council supporting their stance.
Consultation	<ol style="list-style-type: none">1. Awareness of the AP2, AP2 ES and SES2 were provided to ward members. During the Hybrid Bill Environmental Statement a report was presented to Economic Growth, Environment and Development (Overview and Scrutiny) Committee in September 2017. This Bill preceded these Additional Provisions.

Financial Implications	1. A general reserve to support petitioning of HS2 was established in connection with Phase 1. The current balance of the reserve is approximately £40, 000 this is considered sufficient to meet the costs of petitioning Phase 2a.
Contribution to the Delivery of the Strategic Plan	1. The development of HS2 would not accord with the objectives of the Strategic Plan for Lichfield District unless a consequence of its development the scheme would generate jobs and wealth creation in the District and have no adverse environmental impacts
Equality, Diversity and Human Rights Implications	1. HS2 Phase 2a will impact upon individual residents, businesses and local communities in the District. As part of the Bill an Equalities Impact Assessment was prepared.
Crime & Safety Issues	1. There may be crime and safety issues linked to both the construction and operation of HS2 Phase 2a however the nature of these issues is not known at this stage. Such details will be reported to members in due course when the information becomes available.
GDPR/Privacy Impact Assessment	1. A Privacy Impact Assessment has been undertaken.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Failure to petition AP2	Lichfield District Council officers and members continue to support Staffordshire County Council and other parties in their petitioning of the AP2 and engage with HS2 Limited to seek resolution of matters prior to the Select Committee stage.	Yellow
B	The comments raised by Lichfield District Council are not agreed by Staffordshire County Council.	Lichfield District Council officers and members will continue dialogue with Staffordshire County Council. Where Staffordshire County Council are not in alignment there will be a need to ensure clarification is sought over their stance.	Yellow

<p>Background documents</p> <p>High Speed Rail (West Midlands – Crewe) Additional Provision 2 (February 2019) and associated documents Lichfield District Council Cabinet Report – 5 December 2017 Lichfield District Council Cabinet Report – 5 September 2017</p>
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Relevant web links

[High Speed Rail \(West Midlands – Crewe\) Additional Provision 2 \(February 2019\) and associated documents](#)

[Lichfield District Council Cabinet Report – 5 December 2017](#)

[Lichfield District Council Cabinet Report – 5 September 2017](#)