

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO COUNCIL**

Date 24 July 2019

1. **REPORT TITLE** **High Speed Rail (West Midlands to Crewe) Bill (HS2 Phase 2a)**
- Submitted by:** **Head of Planning**
- Portfolios:** **Planning & Growth**
- Ward(s) affected:** **Maer & Whitmore, Madeley & Betley, Keele, Silverdale, Knutton, Holditch and Chesterton (when account is taken of the electricity supply to the railway)**

Purpose of the Report

The report informs Council of the opportunity for the Borough Council to become a Qualifying Authority.

Recommendations

That Council resolves that the Borough Council should become a Qualifying Body

Reasons

The Council should take up this opportunity to have some influence over the details of the scheme

1. **Background -**

1.1 HS2 Phase 2a is being authorised by the High Speed Rail (West Midlands to Crewe) Bill (HS2 Phase 2a). This is a process used to deliver key infrastructure projects of national importance. The Bill will effectively grant planning permission for the works needed to bring the railway into operation

1.2 Amongst other things, the Bill will authorise

- The construction of significant works in the Borough
- The compulsory acquisition of significant amounts of land and ;
- Significant alterations to and interference with highways

1.3 The permission granted by the Bill for the construction of the railway will be subject to a number of conditions requiring the nominated undertaker (the party or parties who will construct the railway) to obtain the consent or the approval of the Local Planning Authorities along the route for certain matters.

1.4 The Bill gives each Local Planning Authority a choice between having a wide or narrow range of controls over the approval of construction details. Local Planning Authorities opting for a wider range of controls are referred to as "Qualifying Authorities", for the purposes of Schedule 17 (Conditions of deemed planning permission) to the Bill.

2. **Issues**

2.1 Qualifying Authorities will be responsible for issuing consents and approvals in relation to matters such as

- Cuttings
- Embankment and other earthworks
- Fences and walls
- Telecommunication masts
- Pedestrian access to the railway line
- Artificial lighting, waste and spoil disposal

2.2 Local Planning Authorities choosing not to sign the Planning Memorandum are referred to in the Bill as “non-qualifying authorities”. They will have a more restricted role and will only be required to approve plans and specification for buildings.

2.3 If it chooses to become a Qualifying Authority the Borough Council will have responsibility for issuing consents and approval in relation to those matters for which it generally has control through the planning system. This will include bridges which are deemed buildings for the purposes of the Bill.

2.4 It would not be responsible for matters which would generally fall to the County Council as follows

- Plans and specifications and construction arrangements about waste and soil disposal and excavation of bulk materials from borrow pits
- Construction arrangements comprising lorry routing

2.5 Councils wishing to become Qualifying Authorities are required to sign the Planning Memorandum. The Planning Memorandum is a document which sets out rules of conduct and administrative arrangements for both the LPAs and the nominated undertaker. It requires the Council to commit to dealing with applications for consent in an expedient manner and being sufficiently resourced to do so. It is likely that the timescale for determination of applications will be 8 weeks, which is in line with the statutory period for non-major planning applications. The Planning Memorandum can be viewed via the following [link](#). Once signed, the Planning Memorandum will be binding upon the planning authority, unless it is released from its requirements by way of an order made by the Secretary of State

2.6 In summary, becoming a Qualifying Authority involves a commitment by the Council to deal with applications appropriately, and within specified timescales, in return for greater control over a wide range of matters than it would otherwise have.

2.7 There is a recognition that the cost of processing approvals and consents will constitute a new burden on the Council. Fees for such approvals and consents, at a level yet to be determined, would be payable. It is known what the fees have been with respect to HS2 Phase 1 approval requests, and that they were set at a level intended to provide planning authorities with a fee regime that enables them to meet the costs of processing such requests. Up until the date on which Royal Assent is obtained work undertaken in respect of HS2 is also the subject of a separate Service Level Agreement with HS2.

2.8 In relation to HS2 Phase 1 (London to Birmingham) all but one of the Councils decided to become Qualifying Bodies – the only Council that did not being the Council where the entire section of HS2 running through its area was in tunnel.

2.9 To become a Qualifying Authority the Council must sign the Planning Memorandum on or before the day when the Bill is reported from the House of Lords Select Committee. It is understood that there is a possibility that this event may happen before the Full Council meeting that is to be held on the 18th September so this matter needs to come before Full Council now. The Department for Transport have asked that each planning authority along the route of HS2 Phase2a indicate by the 31st July 2019 whether they intend to become a Qualifying Authority, although the actual process of signing the Planning Memorandum would follow later.

3. **Options Considered**

3.1 The Council could decide not to become a Qualifying Authority in which case it would have a more restricted role and would only be required to approve plans and specification for buildings.

4. **Proposal**

4.1 That the Council agree to become a Qualifying Authority

5. **Reasons for Preferred Solution**

5.1 It is considered that the Council should take up the opportunity to become a Qualifying Authority which would give it the opportunity to have some influence over details of the scheme, should the Bill become an Act

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 HS2 Phase 2a will have a significant impact upon the western part of the Borough. By being a Qualifying Authority the Council will have the opportunity to have some influence over details of the scheme and this is considered to be compatible and consistent with the Council's corporate priority of providing Local Services that Work for Local People

7. **Legal and Statutory Implications**

7.1 None have been identified

8. **Equality Impact Assessment**

8.1 No equality impact has been identified

9. **Financial and Resource Implications**

9.1 No significant additional resources will be required in relation to the recommendation. The HS2 Bill makes provisions for the putting in place of regulations for fees for applications for approval under Schedule 17, so the impact of becoming a Qualifying Body should be neutral. Depending upon the volume of pre-application enquiries and applications that the Council receives it may be necessary to take on additional staff to deal with this work, but because such work is capable of being the subject of pre-application advice charges and application fees this could be cost neutral, depending upon how pre-application advice charges are set, by the Council, and the level of the fees (which is set by parliament). With respect to the latter the intended objective of the Fee Regulations for Phase 1 has been to provide planning authorities with a fee regime that enables them to meet the costs of processing requests for planning approval under Schedule 17 of the Act associated with that Phase.

10. **Major Risks**

10.1 No Major risk has been identified

11. **Sustainability and Climate Change Implications**

11.1 No direct implications

12. **Key Decision Information**

12.1 This is not a key decision which requires inclusion in the Forward Plan.

13. **Earlier Cabinet/Committee Resolutions**

13.1 None directly relevant to this matter

14. **List of Appendices**

14.1 There are no appendices

15. **Background Papers**

15.1 There are no additional background papers