



## **CABINET – 23 JUNE 2023**

### **PARTICIPATION IN THE HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE DEVELOPMENT CONSENT ORDER PROCESS – RELEVANT REPRESENTATION AND REQUEST FOR DELEGATION**

### **JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF ENVIRONMENT AND TRANSPORT**

#### **PART A**

##### **Purpose of the Report**

1. This report concerns the proposed Hinckley National Rail Freight Interchange (HNRFI), a large multi-purpose rail freight interchange and distribution centre.
2. As a “Nationally Significant Infrastructure Project” the HNRFI proposal is not being considered by the local planning authority (Blaby District Council) but via a Development Consent Regime, which has a six-stage process. The Planning Inspectorate is at the centre of the process, which is currently at pre-examination stage. At this stage, the public and organisations can register as Interested Parties by making a Relevant Representation, a summary of their concerns on the application.
3. The purpose of this report is to advise the Cabinet of the County Council’s Relevant Representation and to ask the Cabinet to authorise the Chief Executive to submit any further representations to the examination on the HNRFI proposal on behalf of the Council.

##### **Recommendations**

4. It is recommended that:
  - a) The comments set out in the Appendix to the report to be submitted to the Planning Inspectorate as the Relevant Representation of the County Council on the HNRFI proposal be approved;
  - b) The Chief Executive be authorised to make submissions on behalf of the County Council during the Examination stage on the HNRFI proposals, in line with the deadlines set by the Planning Inspectorate.

### **Reasons for Recommendation**

5. The Relevant Representation sets out key concerns for consideration by the Planning Inspectorate and the applicant, Tritax Symmetry, and will be used by the Examining Authority to inform the key questions to be posed during the examination process.
6. Local Authorities are advised to ensure delegated powers are in place given the short deadlines often imposed during the process.

### **Timetable for Decisions (including Scrutiny)**

7. The timetable for the examination process and required input will be defined at the Preliminary Meeting which is expected to be held in early/mid July 2023.

### **Policy Framework and Previous Decisions**

8. On 5 February 2021 the Cabinet considered a report which set out the Council's initial concerns and views with regard to the proposed HNRFI, in particular
  - the applicant's planned timetable;
  - the need for a Planning Performance Agreement with the applicant that provided certainty regarding both the HNRFI project programme, and the financial contributions required to cover the Council's costs in responding to the applicant's proposals
  - the applicant's proposed approach to providing evidence in respect of highways and transport issues for consideration by the Planning Inspectorate.
9. On 29 March 2022 the Cabinet approved the formal comments of the County Council, as Local Highways Authority, in response to the public consultation. This included concerns in relation to;
  - Proposals that were not included in the agreed transport modelling
  - Limited engagement in relation to Public Rights of Way proposals
  - A Sustainable Transport Strategy not being included in consultation documentation
  - The use of out-of-date input assumptions in transport modelling
  - Unresolved queries in relation to the furnishing methodology applied (concerning the way traffic flow information is converted from a strategic model to represent turning movements at junctions).
  - The deliverability, legality and enforceability of the proposed 'HGV Route Management Plan & Strategy'
  - Further work being required regarding rail impacts, including consideration of proposals by Midlands Engine Rail

### **Resource Implications**

10. As a 'Host Authority', alongside Blaby District Council and Hinckley and Bosworth Borough Council, the County Council is expected to participate fully in the planning process.
11. National Significant Infrastructure Projects (NSIP), of which the HNRFI is one, and the associated planning processes often lead to a level of workload that is outside of business as usual for local authorities. The County Council will do its utmost to recover the costs of consultation and advice given by the County Council to the applicant (including related legal costs). These will be recovered through a Planning Performance Agreement (PPA) between the Authority and the applicant.
12. A PPA agreed in December 2022 looked to recover costs already incurred to the date the applicant submitted their application to the Planning Inspectorate on 17 March 2023. The Agreement estimates costs during this period to be £185,750. Any costs after the date of submission (unless specified in the pre-application work schedule) will be the subject of an additional or extended PPA. An extension to the existing PPA is currently being discussed with Tritax Symmetry.
13. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

### **Circulation under the Local Issues Alert Procedure**

14. This report will be circulated to all Members given the significance of this proposal.

### **Officers to Contact**

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## **PART B**

### **Background**

#### **Policy context**

15. In December 2014 the National Policy Statement for National Networks (NPS) was issued by Government; this sets out the need for, and Government's policies to deliver, development of nationally significant infrastructure projects on the road and rail network. In relation to Strategic Rail Freight Interchanges (SRFIs), the Government recognises the transfer of freight from road to rail has an important part to play in a low carbon economy and concluded a compelling need for an expanded network of SRFIs.
16. This NPS forms the primary basis for the Secretary of State (SoS) making decisions on development consent applications for nationally significant infrastructure projects (NSIPs) in England on national networks.
17. Government (Department for Transport) has recently undertaken consultation on a new National Networks National Policy Statement which closed on 6 June 2023. It includes more guidance in relation to resilience and adaptation to climate change, as well as mitigating environmental impacts and enhancing biodiversity. Government has indicated that while the review is undertaken the current NPS remains relevant Government policy for the purposes of the 2008 Planning Act, and for any applications accepted for examination before designation of the amendments the original NPS should have effect. This is the case for the HNRFI proposal.
18. Under Section 104 of the Planning Act 2008 the SoS must decide an application for a national networks NSIP in accordance with the NPS unless he/she is satisfied that to do so would:
  1. Lead to the UK being in breach of its international obligations;
  2. Be unlawful;
  3. Lead to the SoS being in breach of any duty imposed by or under any legislation;
  4. Result in adverse impacts of the development outweighing its benefits;
  5. Be contrary to legislation about how the decisions are to be taken.
19. The National Planning Policy Framework (NPPF, July 2021) is still considered to be an important and relevant consideration in decisions on NSIPs but only to the extent relevant to the project.
20. The 2021 Midlands Connect Strategy refresh advocates the movement of more goods by rail rather than road, reducing carbon emissions by up to 76%.
21. The non-statutory Strategic Growth Plan (SGP) for Leicester and Leicestershire which sets out a vision for growth to 2050, was approved by the Cabinet and partners in late 2018. The SGP sets out employment land that is needed between 2011 and 2031/2036 in addition to housing need. The SGP includes

the Leicestershire International Gateway concept where there are major employment opportunities, directly referring to East Midlands Airport and the East Midlands Gateway Strategic Rail Freight Interchange (SRFI).

22. The 'Warehousing and logistics in Leicester and Leicestershire: managing growth and change' study (April 2021) specifically focuses on strategic warehousing (units over 9,000sqm of floorspace) such as the warehousing proposed at the HNRFI. This provides updated evidence for road and rail based strategic warehousing provision and in the period to 2041 looks for one further SRFI in Leicester and Leicestershire. Broad 'Areas of Opportunity' are identified in the study to steer future strategic warehousing and logistics proposals. The HNRFI sits within one of these broad 'Areas of Opportunity'.
23. In November 2021 the County Council became a signatory to the Leicester and Leicestershire Statement of Common Ground (SoCG) relating to Strategic Warehousing and Logistics needs (September 2021). The SoCG will help to inform an approach to meeting the Leicester and Leicestershire need which maintains an appropriate supply across the Areas of Opportunity in terms of geography and trajectory. This is required to help demonstrate a collective Duty to Co-operate on this matter.
24. In September 2022 the County Council became a signatory to the Leicester and Leicestershire SoCG relating to Housing and Employment Land Needs (June 2022). This SoCG includes the provision of employment land which covers smaller scale warehousing (beneath 9,000sqm), and the unmet employment need for Leicester (23ha) is directed to Charnwood Borough in order to meet the overall objectively assessed need for employment land within the Leicester and Leicestershire Functional Economic Market Area.

#### The principle of Strategic Rail Freight Interchanges (SRFI)

25. Strategic Rail Freight Interchanges (SRFI) are large multi-purpose rail freight interchange and distribution centres linked into both the rail and trunk road system. They have rail-connected warehousing and container handling facilities and may also include manufacturing and processing activities.

#### Hinckley National Rail Freight Interchange proposal

26. The Hinckley National Rail Freight Interchange (HNRFI) is a SRFI to include railway sidings and freight transfer area alongside a two-track railway between Hinckley and Leicester. The line forms a part of Network Rail's freight route between Felixstowe to Nuneaton as part of a wider network to link major cargo terminals at Southampton, Liverpool and the Humber estuary.
27. The development as proposed would include the construction of south facing slip roads at junction 2 of the M69 motorway and a new link road between M69 and the B4668 Leicester Road, Hinckley – generally known as the A47 link road. The Applicant also proposes land for landscape and planting works, ecological mitigation, drainage balancing ponds and footpath and cycleway

links. The proposal also includes up to 850,000 sqm of warehousing (of which 200,000 sqm would be mezzanine floor).

### The Development Consent Regime

28. The HNRFI proposal forms a Nationally Significant Infrastructure Project (NSIP) and will be considered through the NSIPs route rather than by the relevant local planning authority (Blaby District Council). NSIPs are major infrastructure projects which are determined through the Development Consent Regime.
29. The Planning Act 2008 introduced a six-stage process which front loads consultation at the pre-application stage, with the applicant being at the centre of the process in the first stage and required to fully scope and refine the application before submission to the Planning Inspectorate. The Planning Inspectorate is then at the centre of the process prior to making its recommendation to the relevant Secretary of State who is responsible for making the final decision to approve a NSIP. In the case of SRFIs this will be the Secretary of State for Transport.

### Progress within the six-stage process

30. Stages 1 and 2 covering pre-application consultation (held 12 January to 8 April 2022) and submission for acceptance (17 March 2023) have been completed, with the application for development consent accepted by the Planning Inspectorate on 13 April 2023.
31. Stage 3 has been reached which is the Pre-examination stage. At this stage the public and organisations can register as an Interested Party by making a Relevant Representation, which is a summary of concerns on the application. The Examining Body is also appointed at this stage, and all Interested Parties will be invited to attend a Preliminary Meeting, run and Chaired by the Examining Authority. This is currently scheduled to take place in early/mid July 2023.
32. The following stages will be:
  - **Stage 4:** The examination stage when interested parties can make written and oral representations to the Planning Inspectorate in its capacity as the examining authority. This can last a maximum of six months.
  - **Stage 5:** The Planning Inspectorate makes its recommendation within three months to the relevant Secretary of State who decides whether to approve the project within three months. This stage can last a maximum of six months.
  - **Stage 6:** The post decision stage when the Applicant or other interested party can appeal any decision via a legal challenge. This is a six-week window.

### Role of the County Council

33. The County Council's role in this process is as a consultee. At the first stage of the process, the pre-application stage, the County Council responded in its statutory consultee capacity only, as the Local Highway Authority given the key importance of these matters.
34. At this stage the County Council has broadened the breadth of County Council activities to respond; as such, the Appendix sets out the Relevant Representation of the County Council in its role as a statutory consultee as the Local Highway Authority followed by other themed areas, in brief -
  1. Key elements of the assessment are not supported by the Local Highway Authority and certain elements are lacking; as a consequence, mitigation cannot be agreed at this stage.
  2. The operation of Croft Quarry and impact on rail capacity has not been considered adequately.
  3. Impact on public health, particularly for vulnerable groups, has not been considered adequately.
  4. Consequential impacts in relation to housing demand have not been considered adequately.
  5. Green House Gas (GHG) emissions post mitigation equate to an increase in the Leicestershire carbon baseline of 5%.

### Delegation to the Chief Executive

35. To enable the County Council to respond in a timely manner to the Planning Inspectorate during the forthcoming stages of the Development Consent Order process, delegation to the Chief Executive is sought to enable County Council responses in relation to the HNRFI proposal to be provided in time to meet Planning Inspectorate deadlines.
36. This is particularly pertinent given the Examining Authority is in the process of being appointed and the Planning Inspectorate is now at the centre of the process to unfold over the coming months.
37. The next stages during early/mid-summer will include the preparation of written representations by officers and a Local Impact Report which require timely signing-off prior to submission to the Planning Inspectorate. A series of topic based SoCGs are being prepared and circulated by the applicant setting out areas of agreement and disagreement. These will form the basis of discussion over coming weeks and it is understood that the intent is to distil the outcomes into a single SoCG with the County Council in due course.

### **Equality and Human Rights Implications**

38. There are no equality and human rights implications for the County Council arising from the recommendations in this report. The applicant has prepared a Consultation Report (Document Reference 5.1) as part of their application, this

includes a Statement of Community Consultation setting out how it consulted and took account of consultation responses.

### **Environmental Implications**

39. The environmental implications of the development are being considered through the Environmental Impact Assessment process and Environmental Statement and will form a significant part of the considerations made by the Planning Inspectorate.

### **Partnership Working and Associated Issues**

40. The County Council continues to engage with Blaby District Council, Hinckley and Bosworth Borough Council and the applicant regarding the proposal.
41. Blaby District Council and Hinckley and Bosworth Borough Council will be submitting a Relevant Representation.
42. The County Council's response focuses heavily on its statutory consultee role as the Local Highway Authority. Feedback on areas where the County Council has expertise including in ecology and archaeology, continue to be shared with the district councils in support of any wider response they may submit.
43. The breadth of County Council activities informing the Relevant Representation has been expanded and these follow the Highway Authority statutory consultee Relevant Representation in the appendix.

### **Background Papers**

Report to the Cabinet – 5 February 2021 – Hinckley National Rail Freight Interchange

<https://politics.leics.gov.uk/ieListDocuments.aspx?CIId=135&MIId=6440&Ver=4>

Tritax Symmetry: Hinckley National Rail Freight Interchange Formal Consultation documentation [www.hinckleynrfi.co.uk](http://www.hinckleynrfi.co.uk)

Report to the Cabinet – 29 March 2022 - Response to the Hinckley National Rail Freight Interchange Consultation

<https://politics.leics.gov.uk/documents/g6774/Public%20reports%20pack%20Tuesday%2029-Mar-2022%2014.00%20Cabinet.pdf?T=10>