



CABINET – 24 OCTOBER 2023

LATEST POSITION ON THE HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE DEVELOPMENT CONSENT ORDER

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

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of the progress of the Hinckley National Rail Freight Interchange (HNRFI) proposal to date, and to confirm the County Council's formal position on the application at this stage of the process.
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 examination stage. At this stage, the Examining Authority has invited more detailed views of those Interested Parties (of which the County Council is one) who have submitted Relevant Representations, set out in writing and through attendance at relevant hearing sessions.

Recommendations

3. It is recommended:
 - a) That the current position regarding the Hinckley National Rail Freight Interchange (HNRFI) proposal and the upcoming Examination timetable for further consideration of the application by the Planning Inspectorate be noted;
 - b) That the County Council's position (as a consultee) regarding the HNRFI proposal be agreed as follows:
 - i. That it has no objection to the principle of Strategic Rail Freight Interchanges,
 - ii. That it accepts the need for a Strategic Rail Freight Interchange to be located in south Leicestershire,

- iii. That based on the information submitted by the applicant to date, the HNRFI site in Blaby District cannot be endorsed as an appropriate location given the issues raised by the County Council, including in its role as the Local Highway Authority;
 - iv. That given the significant concerns which remain unresolved, particularly in relation to highways and transport matters, the Council objects to the HNRFI proposal as submitted by Tritax Symmetry to the Planning Inspectorate in March 2023 and considers the Examining Authority should recommend refusal to the SoS;
- c) That the County Council enters into a Statement of Common Ground (SoCG) with the applicant setting out the position on the principle of development and other matters as specified by the Examining Authority;
 - d) That the Chief Executive in consultation with the Director of Environment and Transport, following consultation with the relevant Cabinet Lead Members, be authorised to submit the final SoCG to the Planning Inspectorate prior to 8 March 2024 (deadline 8 of the Examination Timetable).

Reasons for Recommendation

4. To keep the Cabinet updated with the progress being made with the HNRFI proposal through the Development Consent Order process
5. The Council recognises and supports Government policy to deliver a network of Strategic Rail Freight Interchanges (SRFIs) as set out in national policy. SRFI provision has been made in Leicestershire through the delivery of the East Midlands Gateway Strategic Rail Freight Interchange and it is recognised in a recent local study (Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change, April 2021, amended March 2022) that a further SRFI is needed in the County.
6. The lack of information provided by the applicant at the submission stage in April 2023 and in the period to date means there is insufficient information to fully consider and resolve significant concerns, particularly in relation to highways and transport matters.
7. The Planning Inspectorate as Examining Authority has asked the applicant, Tritax Symmetry, to enter into Statements of Common Ground (SoCG) with certain Interested Parties.
8. Delegation to the Chief Executive to agree and submit the SoCG will enable the County Council to respond in a timely manner to the Planning Inspectorate.

Timetable for Decisions (including Scrutiny)

9. The examination into the HNRFI opened on 12 September 2023 and is expected to close on 12 March 2024.

Policy Framework and Previous Decisions

10. On 5 February 2021 the Cabinet considered a report which set out the County 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 County 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.

11. 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 and Strategy'
 - Further work being required regarding rail impacts, including consideration of proposals by Midlands Engine Rail

12. On 23 June 2023, the Cabinet approved the formal comments of the County Council, to be submitted to the Planning Inspectorate as the Relevant Representation of the County Council on the HNRFI proposal, and that the Chief Executive would 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.

Resource Implications

13. 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.
14. 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 County Council and the applicant.
15. A PPA completed 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; this is estimated 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 the applicant.
16. 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

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

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PART B

Background

Policy context

18. In December 2014 the National Policy Statement for National Networks (NPS) was issued by Government; this set 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 that 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.
19. This NPS forms the primary basis for the SoS making decisions on development consent applications for nationally significant infrastructure projects (NSIPs) in England on national networks.
20. The Department for Transport undertook consultation on a new National Policy Statement for National Networks which closed on 6 June 2023. This 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.
21. 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.
22. The National Planning Policy Framework (NPPF, September 2023) is still considered to be an important and relevant consideration in decisions on NSIPs but only to the extent relevant to the project.
23. The 2021 Midlands Connect Strategy refresh advocates the movement of more goods by rail rather than road, reducing carbon emissions by up to 76%.
24. 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. This 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).

25. The 'Warehousing and logistics in Leicester and Leicestershire: managing growth and change' study (April 2021, amended March 2022) 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'.
26. 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.
27. 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 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)

28. 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

29. 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.
30. 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 the 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

31. The HNRFI proposal forms a Nationally Significant Infrastructure Project (NSIP) and will be considered through the NSIP 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.
32. 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

33. 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.
34. The Pre-examination stage (Stage 3) has also been completed. The public and organisations were able to register as an Interested Party by making a Relevant Representation, which is a summary of concerns on the application. The Examining Body was also appointed at this stage, and all Interested Parties were invited to attend a Preliminary Meeting, run and Chaired by the Examining Authority. This took place on 12 September 2023.
35. Stage 4 is currently underway, which is the stage in which 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. The County Council has already made representations at a number of sessions including the Issue Specific Hearing on the Project Definition and draft Development Consent Order, and at the Compulsory Acquisition Hearing on the applicant's general case. It is anticipated that the examination will close on 12 March 2024.
36. Following the closing of the examination 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 (Stage 5); this can last a maximum of six months. Stage 6 is the post decision stage, when the applicant or other interested party can appeal any decision via a legal challenge within a six-week window.

Role of the County Council

37. 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.
38. The County Council then broadened its breadth of activities to respond. The Relevant Representation of the County Council in its role as a statutory consultee (as the Local Highway Authority), followed by other themed areas, was submitted on 23 June 2023. This included that:
 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%.
39. The County Council submitted its Written Representations and Local Impact Report to the Examining Authority on 10 October 2023 (Deadline 1) and is due to appear in person at the Issue Specific Hearing (ISH2) on Traffic, Transportation and Rail on 31 October 2023, Issue Specific Hearing (ISH3) on Environmental Matters and Issue Specific Hearing (ISH4) on Need and Socio-Economic Matters on 1 November 2023.
40. On 11 August 2023 the Planning Inspectorate published its Rule 6 letter which introduced the Examining Authority and included details on the Preliminary Meeting, information on the examination process including the timetable, the initial assessment of principle issues and other initial observations. In Annex D to the letter the Examining Authority set out its desire for the applicant to enter into Statements of Common Ground (SoCG) with certain Interested Parties and an expectation of the matters to be covered. For the County Council this includes coverage of the principle of development, in addition to topic areas including traffic and transport, public rights of way, economic and social effects, environmental, design, other potential effects including on heritage assets, biodiversity, air quality, emissions and the draft Development Consent Order.
41. Input to the SoCG is ongoing, with the applicant leading on its preparation. Draft SoCGs are to be submitted to the Planning Inspectorate by 24 October 2023.
42. On 10 October 2023 the County Council submitted to the Planning Inspectorate a summary of its Written Representations, Written Representations, Local

Impact Report and Transport Modelling Protocol, which are attached as Appendices to this report.

Principle of Development

43. The County Council recognises and supports Government policy to deliver a network of SRFIs in aiding the transfer of freight from road to rail, supporting transport decarbonisation, as set out in national policy contained within the Department for Transport 'National Policy Statement for National Networks' (December 2014) and the draft replacement national policy statement consulted upon earlier this year.
44. SRFI provision has been made in Leicestershire through the delivery of the East Midlands Gateway Strategic Rail Freight Interchange (opened for operation in April 2019), and it is recognised that a recent local study (Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change, April 2021, amended March 2022) indicates the need for a further SRFI in Leicestershire, focused within 'Areas of Opportunities', containing rail corridors.
45. However, the County Council is of the view that given the significant concerns which remain unresolved in relation to the HNRFI proposal, particularly regarding highways and transport matters, support cannot be given to the submitted application to the Planning Inspectorate (March 2023) and therefore the County Council objects to the HNRFI, and considers the Examining Authority should recommend refusal to the SoS for a Development Consent Order for the HNRFI.

Delegation to the Chief Executive

46. To enable the County Council to respond in a timely manner to the Planning Inspectorate during the Development Consent Order process, delegation to the Chief Executive was granted at the 23 June 2023 Cabinet meeting.

Equality and Human Rights Implications

47. 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 the application, this includes a Statement of Community Consultation setting out how it consulted and took account of consultation responses.

Environmental Implications

48. 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

49. The County Council continues to engage with Blaby District Council, Hinckley and Bosworth Borough Council and the applicant regarding the proposal.
50. Blaby District Council and Hinckley and Bosworth Borough Council will each be submitting Written Representations and Local Impact Reports.
51. 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.

Background Papers

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

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

Tritax Symmetry: Hinckley National Rail Freight Interchange Formal Consultation documentation www.hinckleynrfi.co.uk

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

<https://politics.leics.gov.uk/documents/q6774/Public%20reports%20pack%20Tuesday%2029-Mar-2022%2014.00%20Cabinet.pdf?T=10>

Report to the Cabinet on 23 June 2023 – Participation in the Hinckley National Rail Freight Interchange Development Consent Order Process – Relevant Representation and Request for Delegation

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7077>

Appendices

- A – Written Representations Summary
- B – Written Representations
- C – Local Impact Report
- D – Transport Model Protocol