



CABINET – 22 NOVEMBER 2024

HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE

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 latest position regarding the application by Tritax Symmetry (Tritax) for the Hinckley National Rail Freight Interchange (HNRFI) Nationally Significant Infrastructure Project (NSIP) and recommend next steps to be taken by the County Council as an Interested Party.
2. In accordance with the NSIP process, the Planning Inspectorate has examined the HNRFI submission and made a recommendation to the Secretary of State for Transport (SoS).
3. In September, the SoS issued a “minded to refuse” letter and gave Tritax a further 3 months to submit additional supporting information in response to concerns raised by the Examining Authority (Planning Inspectorate) and SoS. Interested Parties have until 31 January 2025 to comment on this additional information.

Recommendations

4. It is recommended that:
 - a) The current position regarding the Hinckley National Rail Freight Interchange (HNRFI) application be noted;
 - b) The County Council continues to engage with Tritax Symmetry (the Applicant) to as far as possible address outstanding concerns regarding the HNRFI planning application as highlighted by the Secretary of State (SoS) in her letter dated 10th September 2024;
 - c) The Chief Executive in consultation with the Director of Environment and Transport be authorised to submit a final response on the additional information to the SoS to meet the 31st January 2025 deadline.

Reasons for Recommendation

5. To advise the Cabinet regarding the position of the HNRFI application following the close of the examination in March 2024.
6. To achieve the best outcome for the residents of Leicestershire should the SoS decide to approve the application. As a statutory consultee, the Council is expected to engage proactively with the Applicant and take part in all stages of the process.
7. To enable the Council to respond to the SoS in a timely manner noting the deadline imposed.

Timetable for Decisions (including Scrutiny)

8. The examination of the HNRFI application by the Planning Inspectorate (the Examining Authority (ExA)) began on 13th September 2023 and was completed on 12th March 2024. The ExA's recommendation on the application was submitted to the SoS on 10th March 2024, with a final decision on the application to be made by the SoS on or before 10th September 2024.
9. On 10th September 2024, the SoS issued a "minded to refuse" letter as opposed to a final decision. This letter provides the Applicant with a further 3 months (to 10th December 2024) to submit additional supporting information in response to concerns raised by both the ExA and SoS, with Interested Parties (of which the County Council is one) having until 31st January 2025 to provide comment on this additional supporting information only.

Policy Framework and Previous Decisions

8. In 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 (PPA) 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.
9. In March 2022, the Cabinet approved the formal comments of the County Council, as Local Highway 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.
10. On 23 June 2023, the Cabinet approved the formal comments of the Council, to be submitted to the Planning Inspectorate as the Relevant Representation of the County Council on the HNRFI proposal and authorised the Chief Executive 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 ExA.
11. On 24th October 2023, the Cabinet noted the latest position on the HNRFI proposals and examination timetable. It agreed that the HNRFI site was not an appropriate location for a strategic rail freight interchange based on the information submitted by the Applicant and authorised the Chief Executive in consultation with the Director of Environment and Transport to submit a final Statement of Common Ground to the Planning Inspectorate.

Resource Implications

12. As a statutory consultee in the NSIP planning process, the County Council is expected to proactively engage with the Applicant and take part in all stages of the process.
13. A PPA agreed with Tritax in December 2022 allowed the Council to recover some of the costs associated with its response during the pre-application and examination process. Costs recovered from the Applicant under that PPA total £157,349.
14. A new PPA to allow recovery of the Council's costs in reviewing additional information that the Applicant chooses to share has been agreed. This covers the period to 31st January 2025.
15. 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

16. This report will be circulated to all members given the significance of the HNRFI application.

Officer(s) to Contact

Zafar Saleem
Assistant Chief Executive
Tel: 0116 305 4952
Email: zafar.saleem@leics.gov.uk

Ann Carruthers
Director of Environment and Transport
Tel: 0116 305 7000
Email: ann.carruthers@leics.gov.uk

Rebecca Henson
Head of the Growth Service
Chief Executive's Dept.
Tel: 0116 3057198
Email: rebecca.henson@leics.gov.uk

Julie Thomas
Head of Planning, Historic and Natural Environment
Chief Executive's Dept.
Tel: 0116 305 5667
Email: julie.thomas@leics.gov.uk

PART B

Background

17. The HNRFI application was received by the ExA on 17th March 2023 and was accepted for Examination on 6th April 2023. The examination of the application began on 13th September 2023 and was completed on 12th March 2024. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of meetings held including site visits. The County Council submitted written representations at every stage of the process and officers representing the Authority spoke at each hearing session.
18. The SoS was expected to make a decision on the application on or before 10th September 2024. However, on 10th September 2024 a written Ministerial Statement was made to Parliament confirming that it was necessary to extend the deadline for a decision to March 2025. The Planning Act 2008 allows for an extension to the statutory 12-month deadline for determination provided that a written Ministerial Statement is made to Parliament.
19. The reason for the extension to the deadline was that whilst the SoS is minded to agree with the ExA's recommendations that she should withhold consent, she wishes to gather further information before making her final decision.
20. On 10th September 2024, the SoS also issued a letter to the Applicant, together with a copy of the ExA's Report of Findings and Conclusions and Recommendations (dated 10th June 2024).
21. The letter and accompanying report set out a number of concerns with the application. These concerns reflect those raised by the County Council throughout the process.
22. The SoS has asked that the Applicant submit further information relating to some of these concerns by 10th December 2024. This information includes:
 - Transport modelling at M1 J21/M69 J3 including associated traffic signal information.
 - Proposals to address the increased highway safety risk at Sapcote associated with increased HGV movements through the village.
 - Proposals to address the impact of increased barrier downtime at the Naborough level crossing on those that are unable to use the existing stepped footbridge.
 - Measures to avoid or mitigate the potential harm to living conditions and the mental health of occupiers of the Aston Firs Travellers' site in respect of a proposed acoustic fence adjacent to the boundary of the site.
23. The SoS has also invited comments from the Applicant on:

- Suggested amendments to the Sustainable Transport Strategy and the associated requirement.
 - Suggested amendments to the HGV Routeing Strategy and the associated requirement.
 - Further submissions from an Interested Party in respect of noise.
 - The potential for harmful effects from construction on occupiers who have not moved out of the site.
24. The SoS letter states that following the publication of this information on the Planning Inspectorate's website, Interested Parties will have 28 days to comment on this information only. Noting that this 28 days covers the Christmas and New Year holiday period, the County Council wrote to the Department for Transport (DfT) on 19th September requesting that this deadline be extended. The DfT responded to this letter on 23rd September and has extended the deadline for responses from Interested Parties to 31st January 2025.
25. Following receipt of the SoS letter the Applicant failed to make contact with the County Council for a month. On 11th October, a letter was received from Tritax requesting that the County Council met with them, reviewed information to be submitted on 28th October 2024, and provided comment on a Unilateral Undertaking (UU). This UU includes contributions to mitigate the impact of the Proposed Development at Desford Crossroads, the A5 Gibbet Roundabout, and general HGV impact on local villages.
26. The County Council responded to this letter on 15th October offering a meeting time and confirming that information would not be reviewed unless the Applicant covered the County Council's costs in advance via a PPA.
27. A meeting was held on 21st October and Tritax confirmed that the additional information would be submitted to the County Council for review in line with the requests from the SoS. Information was received on 28th October which includes the following details:
- Amended alignment of acoustic fencing along the proposed A47 link road.
 - A dedicated Public Right of Way through the Proposed Development site.
 - A revised HGV Routeing Strategy and associated mitigation measures
 - A revised Sustainable Transport Strategy.
 - A revised scheme for the centre of Sapcote village.
28. It should be noted therefore that information has not been provided by the Applicant to the County Council in advance of 10th December that addresses all of the concerns raised by the ExA and SoS, notably:
- Transport modelling at M1 J21/M69 J3 including associated traffic signal information.

- Proposals to address the impact of increased barrier downtime at the Narborough level crossing on those that are unable to use the existing stepped footbridge.
 - Measures to avoid or mitigate the potential harm to living conditions.
29. The County Council will continue to engage with the Applicant, and review information ahead of the 10th December deadline following receipt of upfront costs.
30. The County Council will continue to liaise directly with Blaby District Council, Hinckley and Bosworth Borough Council, Warwickshire County Council, and National Highways to share information.
31. The County Council will prepare and submit a final response to the ExA/SoS on the information submitted by the Applicant prior to the 31st January 2025 deadline.

Equality Implications

32. There are no equality implications arising from the recommendations in this report. The SoS and ExA set out in their letter and report that “the Proposed Development would not advance equality of opportunity for those with protected characteristics of disability or race as defined by the Equalities Act 2010”. This is in relation to the expected impacts at Narborough level crossing and the Aston Firs Travellers Site as set out in paragraph 22 above.

Human Rights Implications

33. The SoS notes in her letter that “the expected impacts of the Proposed Development at Aston Firs Travellers Site could affect the residents’ human rights: Article 1 of the First Protocol (rights of those whose property is to be Compulsorily Acquired and those whose peaceful enjoyment of their property is to be interfered with) and Article 8 (private and family life, homes and correspondence).

Other Implications and Impact Assessments

34. As set out in paragraph 22 above, the SoS also raises concerns about the impact of the Proposed Development on the mental health of the residents of the Aston Firs Travellers Site.

Background Papers

Report to the Cabinet on 24 October 2023 - Latest position on the Hinckley National Rail Freight Interchange Development Consent Order

<https://democracy.leics.gov.uk/documents/s179123/FINAL%20HNRFI.pdf>

Written statement to Parliament - Hinckley National Rail Freight Interchange: development consent decision extension

<https://www.gov.uk/government/speeches/hinckley-national-freight-interchange-development-consent-decision-extension>

Secretary of State for Transport letter dated 10th September 2024

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR050007/TR050007-002424-Secretary%20of%20State%20-%20Minded%20to%20Refuse%20Letter%20-%20Hinckley%20NRFI.pdf>

Examining Authority's recommendation report dated 10th June 2024

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR050007/TR050007-002407-FINAL%20Hinckley%20TR050007%20Report.pdf>

Letter from the County Council to DfT dated 19th September 2024

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR050007/TR050007-002439-Leicestershire%20County%20Council%20-%2019%20September%202024.pdf>

Letter from DfT to the County Council dated 23rd September 2024

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR050007/TR050007-002441-DfT%20Letter%20-%20LCC.pdf>