

Executive

High Speed 2 (HS2) Update

2 September 2013

Report of Head of Strategic Planning and the Economy

PURPOSE OF REPORT

To receive an update on the High Speed Rail - HS2 scheme and Cherwell District.

This report is public

Recommendations

The Executive is recommended:

- (1) To note the process that has been introduced by HS2 Ltd for Safeguarding.
- (2) To note the CDC response to the HS2 Environmental Statement.
- (3) To note the on-going Legal Challenge to the HS2 scheme and next steps.

Executive Summary

Introduction

- 1.1 The update report provides an overview of how the Safeguarding process will work in relation to the HS2 scheme, the submission of the Cherwell response to the Environmental Assessment and the on-going legal challenges to the HS2 scheme. The detailed, extensive response to the Environmental Assessment forms the basis for the enhanced mitigation that will be sought in those areas most affected by the scheme.

Proposals

- 1.2 Details of the issues to be considered are set out in the background information.

Conclusion

- 1.3 Cherwell District Council continues to take appropriate steps to respond to the HS2 scheme. This includes supporting legal challenge when necessary and engaging directly with HS2 Ltd to secure the best possible mitigation for the District should the scheme be approved by Parliament.

Background Information

2.1 Background

High Speed Two (HS2) is a scheme advocated by the UK Government to deliver enhanced rail capacity and connectivity between Britain's major conurbations. The HS2 'Y' network aims to provide direct, high capacity, high speed links between London, Birmingham, Leeds and Manchester. Direct links also planned to Heathrow Airport and to the Continent via the existing HS1 (Channel Tunnel Rail Link) line.

2.2 Delivery of HS2

High Speed Two (HS2) Ltd is a company wholly owned by the Department for Transport charged with the development and promotion of the high speed rail project on behalf of the Government.

HS2 Ltd is currently progressing Phase One of the project, including engineering, design and environmental work to allow the Government to 'deposit' a Hybrid Bill in Parliament by the end of 2013. This Bill will seek powers to construct and operate Phase One, with anticipated construction commencing in 2017 and trains operating from 2026.

The Secretary of State for Transport announced a consultation on preferred route for Phase Two to Leeds and Manchester in July 2013.

2.3 Delivery of HS2: developing the route

HS2 Ltd has appointed specialist teams of consultants, engineers and architects to design route and create indicative station layouts. Significant environmental effects have been identified and mitigation measures proposed.

A number of formal consultations have taken place, including the draft Environment Statement (Spring 2013), Property & Compensation proposals & Safeguarding (October 25th 2012 to 31st January 2013). Consultation also sought views on the proposed approach to safeguarding Phase One, included draft directions that would be issued to Local Planning Authorities.

2.4 DfT: Safeguarding Directions – 9th July 2013

Safeguarding Directions were issued to Local Planning Authorities (LPA) including Cherwell on 9 July 2013.

Safeguarding is a long established town planning mechanism that protects large-scale infrastructure projects, such as railways and motorways, from developments that could conflict with them.

As a result of the Safeguarding Direction being issued, LPAs are now required to consult HS2 Ltd from that "commencement date" before determining certain planning applications that fall within the safeguarded area. The LPA has no discretion on these issues so Cherwell District Council is required to follow the new rules and procedures.

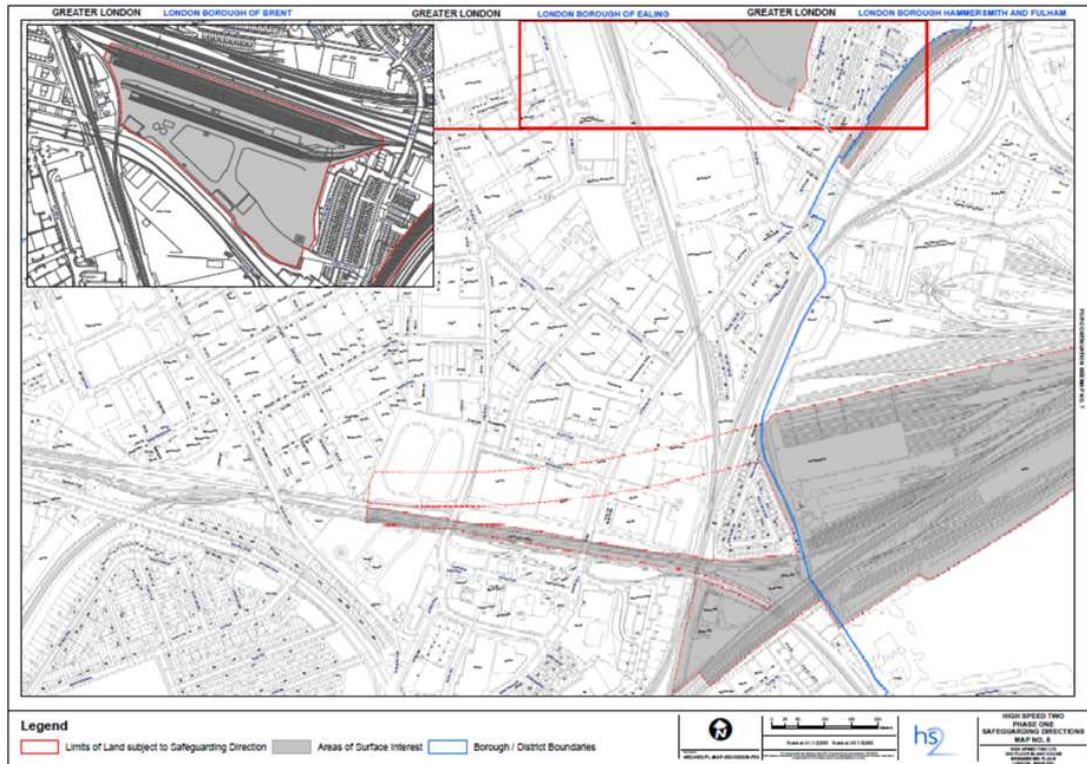
2.5 Notice to property owners

HS2 Ltd has written to all property owners within surface and sub-surface areas. Letters were also sent to all owners who were within a draft safeguarded area but are

not within actual safeguarding and are unlikely to be in the future. The Directions contain plans showing limits of the safeguarded area, areas of surface interest (AOSI), the direction wording (ie the Statutory Instrument) and the duties on the local planning authorities (LPAs)

Accompanying the Direction are guidance notes to LPAs (includes local land charge searches) and provisions on blight and purchase notices.

Example Plan



2.6 Documents received by each Local Planning Authority from HS2 Ltd include:

- Maps relevant to the LPA
- GIS shapefile
- Safeguarding directions
- HS2 Ltd report on consultation
- Government response to consultation
- Guidance for LPAs
- Guide to claiming compensation
- Impact assessment
- Document setting out changes to maps following consultation

These documents are available for download from the CDC Website.

2.7 Implications for Planning Applications.

These Safeguarding Directions apply to certain planning applications (including those not finally determined) within the relevant zone. HS2 Ltd may comment on a planning application where there is a:

- Conflict with the construction and/or the operation of HS2;
- Requirement to protect land from potential impacts of the construction and/or operation of HS2;

- Opportunity to provide for joint schemes, e.g. major developments with the proposed stations.

2.8 The responsibilities of Local Planning Authorities such as Cherwell are:

- To apply criteria for referral to HS2 at the registration of planning applications stage.
- To consider whether the proposal falls 'In or out of the AOSI' and to consider possible exemptions.
- To consider hard copy or electronic consultation.
- That the role of the case officer is restricted, in that they must not determine an application before the expiry of the consultation period with HS2 Ltd.
- To apply HS2 Ltd's advice or refer the application to the Secretary of State before determination.
- To take account of the HS2 Safeguarded area within Planning and Local Land Charge Registers

2.9 The responsibilities of HS2 Ltd fall within three types of response:-

1. No objection
2. Conditions – standard or bespoke
3. Recommendation of refusal

HS2 Ltd aim to respond within 21 days, with a dedicated webpage and planning mailbox for referring applications by email.

Further Information is available from www.hs2.org.uk/safeguarding

2.10 Response to draft Environmental Assessment - July 11th 2013

Cherwell District Council (CDC) submitted a major response to the consultation on the HS2 Draft Environmental Statement on 10th July. The response was approved for submission by the Portfolio Holder for Planning, Councillor Gibbard. The response is attached as Appendix A.

CDC re-iterated a number of points that have been made in previous submissions, by ourselves and others, to reinforce those areas where we still feel that insufficient preparation work and research has been done, such as on transport impacts, local economic impacts, conservation and noise issues.

CDC has sought local community views and drawn on expertise from neighbouring authorities within the 51M consortium in a few specialist areas such as ecology to ensure that our response is both comprehensive and complimentary.

The document is downloadable from -

<http://www.cherwell.gov.uk/HighSpeed2RailLink.htm>

2.11 Response to High Court Challenge – 24th July 2013

On 24th July the Court of Appeal dismissed the latest appeal against the HS2 scheme.

Action was brought against the Department for Transport's decision to progress with HS2 by a group of 15 local authorities from the 51M alliance; HS2 Action Alliance and Heathrow Hub Limited.

The local authorities have asked for permission to appeal to the Supreme Court, the

highest court in the UK.

The Supreme Court appeal will be brought on the ground that a full Strategic Environmental Assessment (SEA) should have been carried out to assess the effect on the environment of both HS2 and its alternatives. An additional and related ground is that the Hybrid Bill process is incompatible with another aspect of European law, the Environmental Impact Assessment Directive.

Cherwell District Council is a party to the appeal but on the basis that no additional costs fall on the authority as a result of its participation. This was also the stance taken by the Council at the Court of Appeal stage. The appeal hearing is being expedited and it is currently estimated to be heard in October.

2.12 Next Steps

- 2.13 CDC has begun preparing detailed mitigation proposals for where the preferred route passes through Cherwell, such as additional bunds, planting and screening to reduce the impacts of noise and visual impacts. There will be close liaison with community in shaping these proposals.
- 2.14 CDC plans to engage Parliamentary Agents jointly with South Northants Council to coordinate responses to Hybrid Bill when tabled in December 2013. CDC anticipates being called to give evidence on issues facing the District from the route. As Parliament can change much about the HS2 scheme, the nature of the mitigation sought by CDC stands to be important and will be considered during the passage of the Hybrid Bill
- 2.15 The government is currently aiming to try to get the Hybrid Bill through Parliament before the General Election is held in May 2015. The passage of the London Cross Rail Hybrid Bill took 91 Parliamentary days which suggests that the proposed Parliamentary Bill timetable looks very challenging to secure, a point made recently by the Public Accounts Committee.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 To note the Safeguarding Direction. This is now in force.
- 3.2 To note the steps taken in response to the Environmental Statement, the on-going legal challenge and the preparation of a detailed mitigation strategy in time for the consideration by Parliament of the Hybrid Bill.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- | | |
|---------------------|---|
| Option One | To note the recommendations relating to CDC actions and discretion. |
| Option Two | To reject those recommendations |
| Option Three | To propose an alternative approach. |
-

Consultations

Oxfordshire County Council, South Northants Council and 51M

Extensive discussions on the nature and potential impacts of High Speed Rail on landscapes.

Implications

Financial: The cost of preparing the response to the HS2 Environmental Statement was met from existing resources.

Comments checked by Karen Curtin, Head of Finance.
0300 0030106

Legal: As indicated in the report the Council remains a party to the on-going appeal but with immunity from any adverse costs consequences should it be unsuccessful. The proceedings are being conducted by external solicitors procured on behalf of the 51M authorities.

Comments checked by Kevin Lane, Head of Law and Governance, 0300 0030107

Risk Management: There are major implications for the District from the DfT proposals, which Cherwell Council is working to address.

Comments checked by Claire Taylor, Corporate Performance Manager, 0300 0030113.

Wards Affected

Fringford

Corporate Plan Themes

A Cleaner, Greener Cherwell

Lead Member

**Councillor Gibbard
Lead Member for Planning**

Document Information

Appendix No	Title
Appendix A	Response to draft Environmental Assessment - July 11th 2013
Background Papers	
None	
Report Author	Adrian Colwell, Head of Strategic Planning and the Economy
Contact Information	03000030110 Adrian.colwell@cherwellandsouthnorthants.gov.uk