

 Executive: 26 March 2014		Agenda Item No. 3
Title	Petition Against the High Speed Rail (London-West Midlands) Bill	
For further information about this report please contact	Gary Fisher	
Wards of the District directly affected	Kenilworth Abbey; Kenilworth Park Hill; Stoneleigh; Cubbington; Radford Semele.	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes
Equality and Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	12/3/14	Bill Hunt
Head of Service	11/3/14	Tracy Darke
CMT	12/3/14	
Section 151 Officer	12/3/14	Mike Snow
Monitoring Officer	12/3/14	Andy Jones
Finance	12/3/14	Jenny Clayton
Portfolio Holder(s)	12/3/14	Councillor John Hammon
Consultation & Community Engagement		
N/A		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
That a recommendation is made to Full Council.		

1. **SUMMARY**

- 1.1 The purpose of this report is to consider whether, notwithstanding this Council's opposition to the principle of phase 1 of the High Speed 2 (HS2) Project, the Council should also object to (petition against) specific aspects of that scheme in order to seek to reduce the impacts on communities; businesses and the environment within the District.

2. **RECOMMENDATION**

- 2.1 That Executive recommends to Council that under the provisions of Section 239 of the Local Government Act 1972 it resolves that it is expedient for the Council to oppose the High Speed Rail (London-West Midlands) Bill deposited in the Session of Parliament 2013-14;
- 2.2 That Executive recommends to Council that the Head of Development Services in consultation with the Chief Executive and the Development Services Portfolio Holder are authorised to determine the content of the Petition and to take all such other steps as considered necessary to carry the foregoing Resolution into effect, including the authorisation of Sharpe Pritchard (Parliamentary Agents) to sign the Petition of the Council against the Bill.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 It is proposed that High Speed 2 (HS2) will be the UK's new high speed rail network. The proposed network will link London and the West Midlands (Phase One) and will expand in the future to connect with Manchester and Leeds (Phase 2).
- 3.2 In January 2012, the Secretary of State for Transport announced the route of Phase One linking London to Birmingham.
- 3.3 HS2 is being authorised through Parliament by a Hybrid Bill ("the Bill"). This is a process used to deliver schemes of national importance such as key infrastructure projects previously including High Speed 1 (the channel tunnel link) and Crossrail. The Bill will essentially grant planning permission for the works required to bring the railway into operation, subject to the approval of specific details of the scheme by Local Planning Authorities.
- 3.4 Amongst other things, the Bill would authorise
- the principle of the construction of the railway through the District;
 - the key infrastructure proposed for specific locations including for example the use of cuttings, tunnels, viaducts and bridges;
 - the compulsory acquisition of land and;
 - major alterations to and interference with highways.
- 3.5 The Bill for HS2 Phase 1 between London and the West Midlands was deposited and given a formal first reading in the House of Commons on 25 November 2013. It is anticipated that the second reading of the Bill will take place in mid-May 2014.
- 3.6 It is during the second reading that the principle of the Bill will be debated. If approved by Parliament at this stage, the principle of the construction of a high

speed railway between London and the West Midlands will be established and not capable of subsequent challenge.

- 3.7 It should be noted that the recommendations of this report do not include actions relating to the second reading of the Bill. Rather, the resolutions are directed at the proposed subsequent actions to be undertaken by this Council should the principle of the construction of the railway be approved during the second reading of the Bill.
- 3.8 Following any approval of the principle of the construction of the railway at the second reading stage, individuals and organisations with sufficient interest (including Local Authorities whose areas are affected by the proposed railway) are able to submit "petitions" seeking changes to the Bill and to the detail of the scheme design. This petitioning process is the only means by which amendments to the Bill, along with additional mitigation or compensation measures may be secured.
- 3.9 It is understood that irrespective of their view on the principle of the HS2 project, various individuals, groups and organisations affected by the proposed route within Warwick District are proposing to submit such petitions. Officers are working closely with Warwickshire County Council; Parish and Town Councils and other groups and organisations in order to co-ordinate those actions as far as is possible.
- 3.10 Petitioning may result in the Bill being amended, or in additional mitigation or compensation being secured through legally binding "undertakings and assurances" given by the promoters of the Bill.
- 3.11 Prior to submitting any petition, this Council must resolve to "oppose" the Bill under the provisions of Section 239 of the Local Government Act 1972. The term "oppose", in this context, does not mean that the Council is continuing to challenge the fundamental principle of the Bill. Rather it means that the Council requires changes to the Bill in order to reduce the impact on communities and the environment within the District.
- 3.12 A resolution to oppose the Bill can only be passed where at least 50% of all elected members have voted in favour of it, i.e. 50% of the total number of elected members, rather than of those attending the relevant meeting.
- 3.13 In order to work together as effectively as possible including the sharing of costs where appropriate, officers are collaborating with officers of the County Council in relation to the response to HS2 generally including the petitioning process. In that respect, both Councils have jointly procured Sharpe Pritchard to provide specialist advice and to act as Parliamentary Agents including to officially deposit each Council's petition in Parliament. Parliamentary Counsel has also been provisionally briefed to act as both Councils advocate before the Select Committee.
- 3.14 Following the expiry period for their deposit, a House of Commons Select Committee will consider the petitions that have been submitted, during which there will be an opportunity for petitioners to appear before the Select Committee in person, to make representations and call evidence in support of their case.

- 3.15 The Select Committee process is similar to local Planning Inquiries in that evidence is presented and submissions made by and on behalf of petitioners in order to seek to persuade the Select Committee members that the Bill should be amended to address the issues raised.
- 3.16 After that process is complete, the Select Committee will produce a report setting out the amendments to the Bill that they consider are justified.
- 3.17 In advance of the Select Committee stage, there will also be an opportunity for potential petitioners to engage with HS2 Ltd in order to seek to secure undertakings and assurances from them that will resolve the potential petitioning issues and therefore obviate the need for the Council to petition on particular issues. It is anticipated that this process of negotiation will commence imminently and continue throughout the petitioning process.
- 3.18 Officers are in the process of identifying the issues that may be included in any petition made by this Council. The potential issues identified to date are listed in Appendix 1 however, this is very much a work in progress such that potential issues may be added or removed as discussions with Warwickshire County Council; Parish and Town Councils; other groups and organisations and HS2 Ltd progress.
- 3.19 The Council has received legal advice from its Parliamentary Agents to the effect that the Council may resolve to submit a petition before the petition is drafted in its final form.
- 3.20 The Council is not obliged to submit a petition against the Bill. However, not doing so would effectively prevent the Council from having any influence over the key elements of the proposed scheme for the benefit of the communities; businesses and environment of Warwick District.

4. POLICY FRAMEWORK

- 4.1 The HS2 project is a major national development scheme running through the District which by its nature is not considered against this or any other Council's existing or emerging Development Plan documents.
- 4.2 Nevertheless, a resolution to petition against the HS2 Bill is the Council's only opportunity to seek to influence the main design features and impacts of the scheme for communities; businesses and the environment within the context of the Fit for the Future vision of making the District a great place to live, work and visit.

5. BUDGETARY FRAMEWORK

- 5.1 In November 2013, Employment Committee approved the creation of an HS2 Project Officer post within the Development Management team to lead on the Council's response to the HS2 project. Recruitment to that post is now complete with the successful candidate taking up the post within the next few weeks.
- 5.2 In addition and taking into account the joint working approach with Warwickshire County Council, it is estimated that the legal costs of petitioning would amount to some £65 – 70,000. Should the Council decide to engage

expert witnesses to provide evidence to the Parliamentary Select Committee in support of its petition, this would also attract further costs.

- 5.3 It is proposed that the HS2 budget will be used to fund this work.

6. RISKS

- 6.1 The key risks in respect of this proposal would arise should the Council resolve not to petition against the HS2 project. In that circumstance, there would be a risk that the opportunity for the Council to seek to reduce the impact of the scheme within the District through the introduction of revisions and increased mitigation to benefit communities; business and the environment would be missed.

7. ALTERNATIVE OPTION(S) CONSIDERED

- 7.1 It is open to the Council to resolve not to petition against the HS2 project. However, this would prevent the Council from seeking improvements to the scheme as indicated in 6.1 above and for that reason has been discounted by officers.

APPENDIX 1: Outline List of Potential Petitioning Issues

This Council is working closely with Warwickshire County Council in identifying potential petitioning issues and in doing so also liaising with Town and Parish Councils; residents groups and other organisations in that respect.

The outline list of potential issues below, rather than identifying all possible matters therefore only includes those which fall within the District Council's remit and which are considered to be so significant that they merit inclusion. The consideration of potential petitioning items is an ongoing piece of work and is therefore also subject to the addition or removal of items at this stage.

As indicated above, the Council is in the process of engaging with HS2 Ltd with a view to negotiating improvements to the scheme which may result in some of the issues included in the list being resolved in advance.

List of Potential Petitioning Issues

1. The impact during both construction and operation of the HS2 route on Stoneleigh Park which is a major local employer as a result of the route cutting directly through this site.
2. The impact during both construction and operation of the HS2 route proposal upon the community of Burton Green, as a result of the route cutting directly through this village.
3. The impact of the scheme upon the environment of the Crackley Gap separating Kenilworth and Coventry through which the route runs.
4. The impact of the scheme upon the South Cubbington Ancient woodland through which the route runs.
5. The impact of the key heritage assets of Stoneleigh Abbey; Stoneleigh village and Stareton hamlet.