

 <b>Executive Committee: 2 June 2016</b>		<b>Agenda Item No.</b>  <h1 style="text-align: center;">8</h1>
<b>Title</b>	HS2	
<b>For further information about this report please contact</b>	Debbie Prince HS2 Project Officer	
<b>Wards of the District directly affected</b>	All Wards	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	??	
<b>Background Papers</b>	??	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes
<b>Equality Impact Assessment Undertaken</b>	N/A

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	16/5/16	Chris Elliott and Bill Hunt
Head of Service	16/5/16	Tracy Darke
CMT	16/5/16	Bill Hunt
Section 151 Officer	16/5/16	Mike Snow
Monitoring Officer	16/5/16	Andrew Jones
Finance	16/5/16	Mike Snow
Portfolio Holder(s)	16/5/16	Councillor Cross/Butler
<b>Consultation &amp; Community Engagement</b>		
N/A		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		
Report to Full Council		

## 1. **Summary**

- 1.1 The purpose of this report is to seek authority to sign the HS2 Planning Memorandum, the effect of which is that WDC will become a Qualifying Authority for the purposes of the HS2 Hybrid Bill.

## 2. **Recommendation**

- 2.1 That Executive authorises the signing of the HS2 Planning Memorandum to that effect.

## 3. **Reasons for the Recommendation**

- 3.1 The HS2 Hybrid Bill will grant planning permission for the construction of a high speed railway between London and Birmingham. However, this permission will be the subject of a number of conditions requiring the nominated undertaker (the party/parties who will construct the railway) to obtain the consent or approval of the Local Planning Authorities along the route for some matters of detail including the detailed design and materials of buildings and structures such as bridges and tunnel portals.

- 3.2 The Bill gives each Local Planning Authority a choice between having a wide or narrow range of controls over the approval of such details. Local Planning Authorities opting for a wider range of controls are referred to as "Qualifying Authorities".

- 3.3 Qualifying Authorities will be responsible for issuing consents and approvals in relation to the detailed design and appearance of structures and other elements of the scheme but that responsibility does not extend to the principle of their construction which is permitted by the Bill itself. Examples of structures and features, the details of which Qualifying Authorities will be able to consider include:-

- Buildings and road vehicle parks;
- Terracing;
- Cuttings;
- Embankments and other earthworks;
- Fences & walls;
- Telecommunication masts;
- Pedestrian access to the railway line;
- Artificial lighting;
- Bridges and viaducts;
- Borrow pits and waste disposal sites;
- Site restoration.

- 3.4 If WDC chooses to become a Qualifying Authority, it will have responsibility for the details of the majority of the above matters with the exception of borrow pits and waste disposal sites which would be dealt with by the County Council.

- 3.5 If the council decided to be a non-qualifying authority, it would have a significantly more restricted role, thereby effectively losing what little control there is over the majority of features and structures within the District.

- 3.6 There are, in broad terms, two grounds on which the details of structures and features forming part of the railway may be refused or permitted, subject to conditions a qualifying authority. These are:-
- i. That the design or external appearance of the works ought to be modified:**
    - a) To preserve the local environment or local amenity,
    - b) To prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,
    - c) To preserve a site of archaeological or historic interest or nature, conservation value, in respect of which the relevant aspect of the scheme is reasonably capable of being so modified
  - ii. That the development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.**
    - a) This aspect would only relate to development within specially sensitive areas such as Historic Parks.
- 3.7 It should, however be noted that it would only be appropriate to raise an objection to the design or details of a particular structure or feature if the impact of that design would be very significant within the surrounding area beyond that which might reasonably be expected as part of the railway scheme.
- 3.8 The reduced level of control applying to non qualifying authorities only enables them to refuse permission in respect of reasons ia. and iia. above - all other matters would remain with HS2. Therefore, in view of the current concern over the impact of HS2 on important heritage assets and the implications for the road network within the District, it is imperative that the Council takes full advantage of the powers that would be conferred on it by becoming a Qualifying Authority.
- 3.9 Councils wishing to become Qualifying Authorities are required to sign the "Planning Memorandum". This is a document that sets out the rules of conduct and administrative arrangements for both the Local Planning Authorities and the nominated undertaker leading up to and during the construction of the railway.
- 3.10 Importantly, it requires the Council to commit to dealing with applications for consent in an expeditious manner, i.e. within 8 weeks, and to being sufficiently resourced to be able to do so. The applications expected to be submitted are likely to be for relatively minor matters but substantial in number.
- 3.11 In view of the level of interest that is likely to be generated by the proposals that come forward (and therefore the potential for the majority of them under current arrangements to need to be dealt with by Planning Committee); the possibility that numerous such applications will be submitted either at the same time or in short succession; and the need to ensure that they are dealt with particularly expeditiously, there is a significant risk that under current arrangements, the anticipated volume of work would have a significant impact upon the capacity of Planning Committee to consider these additional items within the required determination period.
- 3.12 In order to address this issue, it is anticipated that determination of the majority of these applications would need to be delegated to the Head of

Development Services who in conjunction with a small review group of key members could identify those particular submissions which for exceptional reasons ought to be considered by Planning Committee.

- 3.13 Should this approach be agreed, it will require a change to the constitution, and this particular issue will therefore be the subject of a report to Full Council at their next meeting.
- 3.14 The District Council, along with other Councils along the route, has been involved in negotiating the form and content of the Planning Memorandum with HS2 and a final version has now been produced.
- 3.15 It is proposed that the Council will either be reimbursed for the cost of dealing with the additional workload resulting from these applications and approvals by way of either the payment of application fees or the funding of temporary posts within the Council. Discussions in relation to the drafting of an appropriate Service Level Agreement in that respect are on-going.
- 3.16 In summary, becoming a Qualifying Authority involves a commitment by the Council to deal with applications appropriately and within specified timescales, in return for greater control over a wider range of matters than would otherwise be the case.
- 3.17 Prior to any submissions being made to the Council, the works to construct the railway will have the equivalent of outline planning permission such that the Council will only be able to consider aspects of the reserved matters (i.e. the details of design and materials, etc.) in the manner described in this report.
- 3.18 It should be noted that the extent of that control will need to be clearly communicated in an appropriate way to the public so that there is a clear understanding of the expectations in being a qualifying authority and the level of influence over the matters identified above in paragraph 3.3 above.

#### 4. **Policy Framework**

- 4.1 **Fit for the Future** – Becoming a Qualifying Authority will ensure that the Council has some influence over the physical development of HS2 within the District which will therefore contribute to the vision of making Warwick District a great place to live, work and visit as set out in the Sustainable Community Strategy and be consistent with the Fit for the Future programme.

#### 5. **Budgetary Framework**

- 5.1 One of the objectives of the Service Level Agreement which is currently being drafted is to ensure that the work undertaken by Local Planning Authorities in considering and determining the planning applications submitted in respect of the HS2 proposal is cost neutral.

#### 6. **Risks**

- 6.1 Should the Council decide not to take the opportunity to become a Qualifying Authority, it would relinquish the albeit limited planning powers that would be afforded to it and consequently reduce the influence that the Council could have over the HS2 development and its impact on the District to a minimum.

- 6.2 In particular the loss of authority over issues which are important to the local community such as the loss of amenity, traffic flow, highway safety and protection of important heritage assets would be significant.
- 6.3 Should the Council decide not to amend the constitution so as to enable all submissions relating to HS2 to be considered within the required timescales, the Council would risk losing any conferred powers as a result of not being able to meet those challenging deadlines.

## **7. Alternative Option(s) considered**

- 7.1 The risks associated with the Council not deciding to be a Qualifying Authority or amending the constitution to enable decisions to be undertaken expeditiously are identified in section 6 above.
- 7.2 Alternative options have been considered in respect of the proposed revisions to the constitution however the proposals as set out in this report are considered to be the most effective and appropriate.