

## **Highways and Transport Committee**

---

<b>Date of Meeting:</b>	24 November 2022
<b>Report Title:</b>	HS2 Programme Update
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Report Reference No:</b>	HT/68/22-23
<b>Ward(s) Affected:</b>	All Wards

---

### **1. Purpose of Report**

- 1.1. This report provides Committee with a copy of the Council's petitions against the HS2 Phase 2b hybrid bill (High Speed Rail (Crewe – Manchester) Bill) and the first additional provision to the Bill (AP1).
- 1.2. The report outlines the steps the Council is taking to prepare for the Select Committee hearings.
- 1.3. The report also seeks approval of the Council's approach to implementing the HS2 Phase 2a ( Crewe – Manchester ) Act Road Safety Fund including engagement with ward members and the affected communities.

### **2. Executive Summary**

- 2.1. In line with the Full Council resolution (February 2022) the Council has submitted petitions against the High Speed Rail Phase 2b (Crewe – Manchester) Bill on 4<sup>th</sup> August 2022 and a separate petition against AP1 on 9<sup>th</sup> August 2022.
- 2.2. The petitions set out the Council's objections to the Bill and AP1, as deposited, and sets out what it would like HS2 to do to address them.
- 2.3. The next stage of the hybrid bill process is the Select Committee stage. It is important that the Council is able to present a strong case to the Select Committee, supported by evidence, on each of the petitioning objections it puts forward.

- 2.4.** Following Select Committee recommendation, the Lords stage of the passage of the High Speed Rail Phase 2a (Crewe – Manchester) Act required that there be a fund set up to carry out localised road safety works.
- 2.5.** In June 2018, the Government announced that it would provide up to £6.5 million to be split between various affected authorities to support road safety schemes in local authority areas along the Phase 2a line of route. This funding was intended to support high quality projects that benefit those communities that stand to be most affected by the impact of the HS2 construction traffic. HS2 will administer the fund and review applications for funding.
- 2.6.** The Council will be required to prepare and submit business cases for each scheme it wishes to bring forward using the HS2 Phase 2a – Road Safety Fund allocation, thereby showing the proposed approach to allocating the funding that has been developed.

### **3. Recommendations**

- 3.1.** It is recommended that the Highways and Transport Committee:
- 3.1.1. Note that the Council petitioned against the High Speed Rail Phase 2b (Crewe – Manchester) Bill (Hybrid Bill);
- 3.1.2. Note that the Council petitioned against the High Speed Rail Phase 2b (Crewe – Manchester) Additional Provision 1 (AP1);
- 3.1.3. Note that the proposals and mitigations outlined in the Hybrid Bill and AP1 do not meet the standards and requirements that underpin the Council's supportive position on HS2, these being:
- 3.1.3.1. An enhanced Crewe hub station that can serve 5/7 HS2 trains per hour, in each direction, with direct HS2 services to London, Manchester and Birmingham; and
- 3.1.3.2. Appropriate and adequate mitigation and compensation against the negative impacts of the scheme on communities, the Borough's landscape, environment and ecology and against the disruption caused during construction on the local transport network and to residents;
- 3.1.4. Note the steps the Council is taking to prepare evidence for the future Select Committee hearings;
- 3.1.5. Note that the prioritisation of petitioning points, and preparation for Select Committee hearings, will be undertaken in collaboration with the Petitioning Member Reference Group;
- 3.1.6. Authorise the Executive Director of Place to seek a recommendation from Full Council to review the Council's underlying position on HS2 should the appropriate requirements in 3.1.3.1 and 3.1.3.2 not be

secured through sufficiently binding Government commitments, or as undertakings in the Hybrid Bill Parliamentary Process.

- 3.1.7. Accept the total £724k funding allocation to the Council from the HS2 Phase 2a Road Safety Fund and approve the proposed funding split and approach to prioritising schemes, as contained at paragraph 6.14, including the engagement with local ward members, for the development of a programme of road safety improvements.
- 3.1.8. Note that the injunction, granted to HS2 Ltd, imposed by the High Court to allow HS2 Ltd to restrain unlawful trespass on and obstruction of access to land which HS2 holds on the route of the HS2 Scheme will cover the Phase 2a route within Cheshire East.

#### **4. Reasons for Recommendations**

- 4.1. On review of the Hybrid Bill and AP1 documents, it was clear that the scheme being proposed did not provide adequate or appropriate mitigation against the negative impact and disruption caused by the scheme, and its delivery, to the Borough and its residents.
- 4.2. The Council's petition has identified alternative solutions that it would like to be brought forward and enhanced mitigations which it believes would minimise these impacts.
- 4.3. The Council is also aware of alternative options and mitigations have been requested by local parish councils in their own petitions and the Council would also seek that these are carefully considered and thoroughly assessed by HS2.
- 4.4. The Council welcomes the inclusion of the Crewe Northern Connection within the proposed powers being sought through the Hybrid Bill to provide the vital connection between the West Coast Main Line and HS2, north of Crewe, that could enable high speed services between Crewe and Manchester.
- 4.5. However, the Hybrid Bill does not provide firm enough commitments that are sufficiently binding to deliver the necessary investments at Crewe hub station that would enable it to adequately serve 5/7 HS2 trains per hour in each direction.
- 4.6. Instead, the Hybrid Bill fails to assume any additional HS2 services to the 2/3 trains per hour calling from Phase 2a and does not assume any services will use the Crewe North Connection until Northern Powerhouse Rail (NPR) is delivered. NPR delivery will be subject to a future Hybrid Bill and, if progressed and approved, is likely to be some years after HS2 Phase 2b is enacted, and possibly delivered.
- 4.7. Consequently, the Council felt it necessary to object to both the Phase 2b Hybrid Bill and AP1.

- 4.8.** The next stage of the petitioning process is the Select Committee hearings where the Select Committee will hear evidence from the Petitioner (the Council) and the Promotor (HS2) and determine whether any amendments are needed. This is usually done by the Petitioner seeking undertakings/assurances through the Select Committee who places obligations on the Promotor.
- 4.9.** It is important that the Council is able to present robust and conclusive evidence to support its objections to the Bill.
- 4.10.** Whilst HS2 is a Government designed, funded and delivered scheme, the Hybrid Bill and petitioning process provides a key opportunity for the Council to seek to influence the scheme proposals.
- 4.11.** It is important to note that there still remains the opportunity to influence the HS2 Phase 2b scheme to seek the key commitments and mitigations outlined in 3.1.3.1 and 3.1.3.2. However, the Council should ensure that its underlying supportive position on HS2 remains conditional on these being binding commitments and the Council's position should be reviewed should one, or both, of these not be secured.
- 4.12.** The Council has been awarded an allocation from the overall sum of up to £724,000 by Government to implement road safety improvements along the HS2 Phase 2a line of route or associated construction routes within Cheshire East.
- 4.13.** The Council will need to select which schemes to deliver using this Fund and seek approval from HS2 Ltd prior to drawing down the necessary funding. The Council would also like to seek targeted input from ward members and local communities on any schemes they would also like to be considered in this process.

## **5. Other Options Considered**

### **5.1.**

<b>Option</b>	<b>Impact</b>	<b>Risk</b>
3.1.6 Full Council could not be asked to review its HS2 position should it become clear that one or both of the key requirements in 3.1.3.1 and 3.1.3.2 not be committed to the satisfaction of the Council.	The Council would be deemed to be supportive of the Scheme regardless of the outcome for Cheshire East.	The Council has not implemented the Full Council resolution (February 2022)
3.1.7 The Council could choose not to	Agreeing a programme of schemes is likely to	The Council is able to deliver less schemes

agree a fixed methodology for developing a programme of schemes to fund via the HS2 Phase 2a Road Safety Funding	take longer and may result in schemes that do not necessarily provide the greatest benefit	due to inflation eroding the value of the Fund if the programme takes longer to agree.
--	--	--

## 6. Background

### *Petitioning*

- 6.1. On 24<sup>th</sup> January 2022, HS2 Ltd deposited the High Speed Rail Phase 2b (Crewe – Manchester) Bill (the Bill) in Parliament, with the Bill having its first reading. On 6<sup>th</sup> July 2022, HS2 Ltd deposited the first additional provision, known as AP1.
- 6.2. The Council engaged with locally impacted ward members and town and parish councils during the petitioning process by establishing two local cluster groups – a northern cluster group and a southern cluster group.
- 6.3. The Council submitted its petition against the Bill on the 4<sup>th</sup> August 2022 (Appendix 1 of this report) and against AP1 on the 9<sup>th</sup> August 2022 (Appendix 2).
- 6.4. Key concerns raised in the Council's petition include
  - 6.4.1. That the inclusion of the Crewe North Connection provides the rail track solution that would provide the option for HS2 Phase 2b services, including those between Birmingham and Manchester, to route via Crewe station, rather than through the Crewe HS2 tunnel, when Phase 2b opens. However, the Indicative Train Timetable that accompanies Hybrid Bill proposals for Crewe station do not assume any HS2 Phase 2b services use the Crewe Northern Connection.
  - 6.4.2. The Indicative Train Timetable that accompanies the Hybrid Bill assume no additional HS2 services are calling at Crewe station, other than the 2/3 trains per hour enabled via Phase 2a, until (or indeed if) NPR is delivered.
  - 6.4.3. The Hybrid Bill proposals do not provide sufficient infrastructure and investment at Crewe station, including a Transfer Deck, to allow efficient and accessible Station facilities, to safely accommodate 5/7 HS2 trains per hour and are not future proofed for additional HS2/NPR services calling at Crewe station or using the Crewe North Connection.
  - 6.4.4. Underestimation of the potential impacts to the local highway and public transport network during construction
  - 6.4.5. Lack of provision for innovative approaches to the delivery of the green corridor principle and to deliver active travel

- 6.4.6. Lack of mitigation and/or compensation to address the environmental, landscape and ecology impacts of the Scheme
- 6.4.7. Concerns over the Scheme will reduce the North West Area of available inert landfill capacity by 87%
- 6.4.8. Potential flooding and drainage impacts
- 6.4.9. Inadequate provision for the additional Council resources that would be required to provide appropriate community engagement

### ***Select Committee Hearings***

- 6.5. The next stage of the Hybrid Bill and AP1 process will be the Select Committee Hearings. At the time of writing, the Select Committee has not yet formed and no dates for the Select Committee hearings have been published.
- 6.6. Each petitioner will then be granted a specific and finite timeslot for their hearing, usually with approximately 4 weeks' notice.
- 6.7. Therefore, it is important that the Council both prioritises its petitioning arguments, in collaboration with the Petition Member Reference Group. This will take into account the evidence that is currently being reviewed and will enable the Council to present a stronger and evidence backed case to Select Committee to support its petitioning arguments.

### ***HS2 Road Safety Fund***

- 6.8. The Road Safety Fund was set up by Government to help improve traffic, pedestrian, cycle and equestrian safety along the route, and to ensure that the Scheme delivers a lasting safety legacy for Phase 2a.
- 6.9. Following Royal Assent of the HS2 Phase 2a Bill, the Council was allocated up to £724,000 of the £6.5m HS2 Phase 2a - Road Safety Fund from Government.
- 6.10. It can be used by the Council to bring forward road safety focussed projects such as traffic calming measures, increased provision or improving existing pedestrian crossings and enhancing existing cycling provision along the HS2 Phase 2a line of route or along the associated construction routes.
- 6.11. The following parishes and respective wards are impacted by either the Phase 2a line of route or the Schedule 17 construction routes, or both:
  - 1.1..1. Parishes of Hunterson, Blakenhall, Checkley cum Wrinehill, Lea, Walgherton, Wybunbury and Hough) in Wybunbury Ward
  - 1.1..2. Parish of Stapeley in Nantwich South and Stapeley Ward
  - 1.1..3. Parishes of Willaston and Rope in Willaston and Rope Ward
  - 1.1..4. Parish of Shavington cum Gresty in Shavington Ward

**1.1..5.** Parishes of Basford, Wetson and Barthomley in Haslington Ward

**6.12.** Drawdown of the fund will require the preparation of business cases for each proposed scheme and approval by Government and the Council who will need to ensure that the proposed schemes meet the appropriate criteria for the Fund.

**6.13.** Key objectives of the Fund that will be consider by Government when assessing proposed Schemes will be:

- 6.13.1. to leave a legacy of road safety,
- 6.13.2. to mitigate construction traffic impacts
- 6.13.3. does not conflict with the delivery of HS2

**6.14.** As per recommendation contained at paragraph 3.1.7 the funding available will be split as follows;

- 60% (£434k) allocated to the delivery of road safety schemes along the line of Phase 2a or on the known construction routes prioritised in line with the current relevant highways policies.
- 20% (£145k) to community led initiatives which will be selected through an engagement exercise to be undertaken in Q3 2023/24. The format of this engagement and how the schemes which come forward are assessed will be discussed with the affected ward Members in advance of it going live.
- 20% (£145k) retained as a contingency sum for schemes which are subsequently found to be needed once the construction of Phase 2a is on site.

**6.15.** The proposal would be to have all of the schemes selected delivered at the earliest opportunity but definitely in advance of the Phase 2a main construction works commencing.

**6.16.** Members should note that the conditions of the funding allow an immediate 5% draw down for scheme concept design, engagement and business case preparatory costs. Due to the nature of the works in question and the potential for surveys being required to underpin scheme selection that this could be exceeded, hence the Council would have to forward fund these additional costs in advance of business case approval.

***High Court injunction***

**6.17.** On the 20<sup>th</sup> September 2022, the High Court imposed an injunction to restrain unlawful trespass on and obstruction of access to land held by HS2 Ltd on the route of the HS2 Scheme and covers Phase One and Phase 2a.

**6.18.** The Injunction is concerned with actions which cause damage, delay or hinderance to HS2 or its contractors. It prohibits:

- 6.18.1. trespass



- 6.18.2. deliberately obstructing or preventing vehicles from entering or exiting HS2's land
- 6.18.3. interfering with any fences or gates on HS2's land
- 6.19.** The injunction was awarded to HS2 Ltd and is only enforceable by HS2 Ltd themselves, and not the Council.
- 6.20.** The Cheshire Resilience Forum is already mobilised to coordinate any appropriate local response to a HS2 protestor encampment in the Borough. This injunction offers a key tool to manage such protestor activity.

## **7. Consultation and Engagement**

- 7.1.** The Council has engaged with local ward members and town and parish councils through the northern and a southern cluster group meetings during the petitioning process to better understand the local concerns, issues and objections which has been reflected in the Council's petition. The Council will continue to engage through the cluster meetings in the preparation for Select Committee hearings.
- 7.2.** The Road Safety Fund will enable prioritised projects to be delivered that are located along the Phase 2a line of route or the Phase 2a construction routes and engagement on scheme options will be focused on these community areas only.

## **8. Implications**

### **8.1. Legal**

- 8.1.1. Petitioning against a Bill requires specialist knowledge and expertise in drafting the petition and presenting this to the Select Committee. Parliamentary Agents are solicitors approved by the House of Commons and Lords to undertake this work on behalf of bodies seeking to petition. The Council has appointed Parliamentary Agents to assist with this process.
- 8.1.2. Section 239 of the Local Government Act 1972 enables a local authority to oppose a hybrid bill where it is satisfied that it is expedient to do so, but only in accordance with the procedure laid down in the Act.
- 8.1.3. The Council has identified areas of concern that represent legitimate petitioning matters .The principal ones being the future capacity and facilities at Crewe s main station. There are other matters all of which can be raised in the Select Committee and supported by evidence. There are no costs award s as each side bears their own preparation and presentation costs. Hearings are relatively brief and the materials and presentations are kept concise. Members of the Select committee are appointed from areas that have no relationship with the line of route and are cross party with a majority party chair.



- 8.1.4. With regard to the Road Safety Fund HS2 have now issued guidance on how claims are made and assessed and a proforma application. The fund is for works carried out near the authorised works under the Act or along Schedule 17 construction routes. The Council will need to assure that the works are not already in a programme and produce details in a business case based around costs timing and possible conflict with HS2 routing. A review panel at HS2 will consider applications they will not assess the technical standards but look at the proposal from the point of view of Hs2 programme and relationship to their traffic impacts.

## **9. Finance**

- 9.1.1. The costs associated with petitioning including internal recharges, consultants' costs, the costs of parliamentary agents and a KC will be funded by HS2 earmarked reserves and the existing HS2 revenue budget and is expected to be consistent with that identified in the Full Council resolution. This budget has been set on the expectation that the Council will petition against the Bill as is normal for a local authority when planning for such a project.
- 9.1.2. Consideration will need to be given to how and when the allocation from the Road Safety Fund is incorporated into the Council's Medium Term Financial Strategy (MTFS). The Council will also need to determine if the funding offer is index linked or if its buying power will be eroded in the period between allocation and use. The Council should also consider the risk of the fund being insufficient to cover the measures necessary for the wide areas affected by the HS2 line of route and movement of construction traffic which balance mitigating the immediate impacts on residents and users along with the post construction legacy of safer routes and better connectivity.
- 9.1.3. It is recognised that development costs to bring proposed schemes forward may exceed the 5% available for immediate drawdown so there will be a need to forward fund the work. Steps should be taken identify the necessary budget for this and to mitigate against cost overruns and aborted costs arising from rejected schemes.
- 9.1.4. Further work is required to understand the financial implications for the Council arising from the High Court injunction to establish if there are likely to be costs falling upon the Council of managing protes and enforcement of the injunction.

## **10. Policy**

- 10.1.1. A major national project such as HS2 has national policy objectives. Addressing the development impacts of a project of this scale will cover all the Council's aims within the corporate plan.
- 10.1.2. The petitioning objections put forward by the Council are in accordance with its policies.

## **10.2. Equality**

- 10.2.1. An Equality Impact Assessment Report for the scheme will be published as part of the hybrid bill deposit. This will be reviewed in accordance with Cheshire East's own equality and diversity policies.
- 10.2.2. Any petition of the Council to the proposals within the Bill will support equality and diversity within the Borough.

## **10.3. Human Resources**

- 10.3.1. The progression of a petition will have human resource implications across the Place Department, particularly across the planning and highways teams. The uncertainty in timing of the Select Committee and future stages could result in short term resource challenges.
- 10.3.2. Where possible, the Council will manage the work using existing resources and external consultations where required. However, the national shortage of planners could impact the availability of resources to deliver both the petition and the high volume of planning applications received by the Council.

## **10.4. Risk Management**

- 10.4.1. It is considered that preparing a robust petition will increase the ability of the Council to maintain its influence as a key stakeholder and achieve the best possible final decisions for the Borough.
- 10.4.2. There is a risk that the Council could petition but does not get what it wants, having incurred the costs of consultants, Parliamentary Agents and a QC. This will be mitigated by the Council by only taking forward petition "asks" that are supported by a strong evidence base and that we consider would have a reasonable chance of gaining support from the select committee.

## **11. Rural Communities**

- 11.1.1. The proposals within the Bill will have significant impacts on a number of rural communities across the Borough, particularly during the construction period.
- 11.1.2. The Council's petitioning objections will seek maximum mitigation against the environmental impacts of HS2 on our communities.
- 11.1.3. The petitioning process is the final opportunity for the Council to secure improved mitigation measures to minimise disruption to the rural communities across the Borough before the Bill becomes an Act of Parliament.

## **11.2. Children and Young People/Cared for Children**

- 11.2.1. The proposals in the Bill could have implications on walking routes to school for residents within the Borough.
- 11.2.2. The delivery and economic impacts of HS2 will create significant new job opportunities for young people across the Borough in which residents of Cheshire East are well placed to benefit from.

## **11.3. Public Health**

- 11.3.1. The Council's petition seeks to ensure that maximum levels of mitigation is provided, including those against the negative environmental impacts of the HS2 proposals. This could include, for example, impacts on air quality and noise pollution.

## **11.4. Climate Change**

- 11.4.1. HS2 is not a Council led scheme and HS2 Ltd has its own published carbon strategy. The petitioning process enables the Council to seek changes to the delivery of the scheme that could reduce its carbon impact.

<b>Access to Information</b>	
Contact Officer:	Hayley Kirkham, HS2 Programme Director <a href="mailto:Hayley.kirkham@cheshireeast.gov.uk">Hayley.kirkham@cheshireeast.gov.uk</a> 07811 677 352
Appendices:	Appendix 1: Cheshire East Council Petition against the High Speed Rail (Crewe – Manchester) Bill (Hybrid Bill)

	Appendix 2: Cheshire East Council Petition against the High Speed Rail (Crewe – Manchester) Additional Provision 1 (AP1)
Background Papers:	<p>High Speed Rail (Crewe - Manchester) Bill Petition, Full Council Report, 24<sup>th</sup> February 2022  <a href="https://cheshireeast.gov.uk/report-template-v5.1">Report Template v5.1 (cheshireeast.gov.uk)</a></p> <p>High Speed Rail (Crewe - Manchester) Bill information  <a href="https://www.gov.uk/government/consultations/hs2-phase-2b-high-speed-rail-crewe-manchester-bill-2022">HS2 Phase 2b: High Speed Rail (Crewe – Manchester) Bill 2022 - GOV.UK (www.gov.uk)</a></p> <p>High Speed Rail (Crewe - Manchester) information  <a href="https://www.gov.uk/government/consultations/hs2-phase-2b-high-speed-rail-crewe-manchester-additional-provision-1">HS2 Phase 2b: High Speed Rail (Crewe – Manchester) Additional Provision 1 - GOV.UK (www.gov.uk)</a></p> <p>Government Response to the consultation under section 60 of the High Speed Rail (West Midlands – Crewe) Act 2021  <a href="https://publishing.service.gov.uk/government/consultations/government-response-to-the-consultation-under-section-60-of-the-high-speed-rail-west-midlands-crewe-act-2021">Government Response to the consultation under section 60 of the High Speed Rail (West Midlands – Crewe) Act 2021 (publishing.service.gov.uk)</a></p> <p>HS2 Route Wide Injunction  <a href="https://www.hs2.co.uk/route-wide-injunction">HS2 route-wide injunction - HS2</a></p>