

**Blaby District Council  
Council**

<b>Date of Meeting</b>	25 July 2023
<b>Title of Report</b>	<b>Hinckley National Rail Freight Interchange</b> This is not a Key Decision and is not on the Forward Plan
<b>Lead Member</b>	<b>Cllr. Ben Taylor - Planning Delivery and Enforcement &amp; Corporate Transformation</b>
<b>Report Author</b>	Planning & Strategic Growth Group Manager
<b>Corporate Priority</b>	A Place to Live

**1. What is this report about?**

- 1.1 This report seeks approval for an amendment to the existing scheme of delegation for the Hinckley National Rail Freight Interchange (HNRFI); and approval for further budget contingency, should it be required, to consider and respond robustly to the development proposal.

**2. Recommendation(s) to Council**

- 2.1 That Members authorise the Executive Director in consultation with the Portfolio Holder to respond on behalf of the Council in respect of all matters pertaining to the Hinckley National Rail Freight Interchange as described in this report.
- 2.2 That Members authorise the Executive Director in consultation with the Portfolio Holder to organise meetings of the HNRFI Member Reference Group, chaired by the Portfolio Holder and open to all members.
- 2.3 That Members approve an additional budget of £50,000 for the project, to act as a contingency should it be required.

**3. Reason for Decisions Recommended**

- 3.1 To ensure that the Council can engage appropriately with the Development Consent Order Process, meet the statutory deadlines of the Planning Act 2008, and meet the timelines set by the Planning Inspectorate.

## **4. Matters to consider**

### **4.1 Background**

The Hinckley National Rail Freight Interchange is classed as a Nationally Significant Infrastructure Project (NSIP) which are major infrastructure developments. A Development Consent Order (DCO) application for consent to undertake an NSIP is made to the Planning Inspectorate who will consider the application and make a recommendation to the Secretary of State, in this case the Secretary of State for Transport, who will decide on whether the DCO should be granted for the proposed scheme.

The HNRFI site sits predominantly within the administrative boundary of Blaby District Council with approximately 250m of the proposed A47 road link from the M69 to Leicester Road being within the Hinckley and Bosworth Borough Council administrative boundary. This makes the Council a 'Host Authority' along with Hinckley and Bosworth Borough Council and Leicestershire County Council.

The DCO application is currently at the pre-examination phase of the DCO process, and the Council's formal Relevant Representation has recently been submitted.

The stages of the DCO process are summarised below:

- Acceptance – submission of the application to the Planning Inspectorate
- Pre-examination – Interested parties including the host authorities make their relevant representations highlighting points of agreement and disagreement and the main issues and impacts
- Examination – Hearings, representations, statement of common grounds on all matters being considered as part of the application
- Recommendation & Decision – the Planning Inspectorate makes their recommendation within three months of the close of the examination. The Secretary of State then has a further three months to make the decision whether to grant/refuse the DCO
- Post-decision – 6 week Judicial Review period, requirements are discharged, monitoring, enforcement and any changes to the approved development

#### **Scheme of Delegation**

As set out in the Planning Act 2008, the DCO application process, particularly during the examination stage, contains continuous deadlines for the Council to submit reports, documents and answer queries. These will require swift responses (some within less than 5 calendar days) to ensure all matters are fully explored before the close of the examination.

The stages of the DCO application process that require a response from the Council include:

- Acceptance – 14 days to submit Adequacy of Consultation Representation
- Pre-examination – 28 days to submit Relevant Representation form, attendance at pre-examination meeting including consideration of examination timetable
- Examination – variable and often short timelines for submission of Local Impact Report, Statement of Common Ground, written representation, S106 Legal Agreement, written requests for information and attendance at hearings
- Post decision – the Council will be responsible for discharging the requirements (similar to conditions on a normal planning application), enforcing the terms of the DCO and commenting on any proposed amendment to the DCO

The deadlines set out by the Inspectorate are unlikely to align with the Council's scheduled meetings. The Planning Inspectorate has stated that late submissions of representations may prejudice the ability of other interested parties to consider and comment on its content, potentially then disrupting the examination and resulting in additional costs for other interested parties. Moreover, submissions made after the close of the examination will not be taken into account.

In anticipation of this, Council has already agreed a scheme of delegation which covers all stages of the DCO process with the exception of the Written Representation. However, it is becoming evident, given the current stage and anticipated timescales, that the deadline for submission of this may fall prior to the next scheduled Council meeting on 26 September. Therefore, it is proposed that the scheme of delegation be extended, as per the recommendation at 2.1 above.

### Budget

Given the size and significance of the HNRFI proposal, it is really important that the Council is able to respond robustly and with the full and necessary evidence. The cost of doing this is considerable and includes expenditure in areas such as staff time, legal fees, specialist consultants, and technical studies. Funding secured via a Planning Performance Agreement (PPA) does not, despite significant negotiation by officers, cover the expenses that we will incur.

In 2022, a budget of £100,000 was agreed by Council to supplement the PPA funding. The current financial position is that approximately £38,000 of the total HNRFI budget remains, some costs have increased significantly since quotes were sought due to inflation and the current economic situation. The final cost of the process to the Council is unknown due to various uncertainties, such as any further work which may be required on

the back of stakeholder responses, and therefore officers feel that it would be prudent to add an additional budget contingency.

#### 4.2 Proposal(s)

Officers understand that Council will want to ensure that it can formally consider as many responses as possible; and that it is extremely important to be able to discuss views on the proposal in a public setting. This ensures transparency and demonstrates to residents that the Council are supporting and representing their views.

However, it is possible that the submission of the Written Representation will be required prior to the next Council meeting and to ensure officers can submit the representation, it is proposed that full delegation be given to the Executive Director in consultation with the Portfolio Holder, to respond on behalf of the Council. The Written Representation will still be brought before Council, regardless of timescales, to ensure that Members have the opportunity to make their views on the proposal publicly known.

The previous scheme of delegation also established a HNRFI Member Reference Group to be chaired by the Portfolio Holder and open to all members. This group allows members to be kept informed and views can be factored into the Council's reports and representations, including the Written Representation. As such a Member Reference Group meeting will be held early September in order to feed into the written representation.

In terms of budget provision, it is proposed that an additional £50,000 be added to the HNRFI budget, for the reasons set out above.

#### 4.3 Relevant Consultations

Internal consultations have been undertaken as appropriate. Legislation does not require public consultation on this matter.

#### 4.4 Significant Issues

##### Legal Implications

Section 101 local Government Act 1972 provides that a local authority may arrange for the discharge of any of its functions by a committee sub-committee or officer.

Town and Country Planning and development control are specifically excluded from being executive functions by the Local Authority (Functions and Responsibilities) (England ) Regulations 2000

It is therefore not possible under this section to delegate the exercise of powers relating to the exercise of town and country planning and development control to an individual councillor.

If it is intended, as set out in the report, that a single member should be involved in the decision, then the power can be delegated to an officer to be exercised after consulting with the named member.

This is the recommendation in the report, and, in law, the decision must be that of the officer.

## **5. What will it cost and are there opportunities for savings?**

- 5.1 There is existing budget provision of £100,000 for the HNRFI, and this report requests that this is extended to £150,000.

	<b>Current year</b>	<b>2024/25</b>
<b>Revenue</b>	150,000	0
<b>Capital</b>	0	0

## **6. What are the risks and how can they be reduced?**

- 6.1 The risks are set out in the table below.

Current Risk	Actions to reduce the risk
Damage to reputation / adverse publicity / poorer outcomes in respect of the scheme's impacts by not responding appropriately or within the specified timeframes dictated by the Planning Inspectorate.	Have a scheme of delegation in place to enable quick and timely responses on behalf of the Council back to the Planning Inspectorate.

## **7. Other options considered**

- 7.1 The alternative option would be to leave the scheme of delegation as it is. This would however carry a number of risks:

- Inability to meet the statutory and Planning Inspectorate's deadlines.
- The Council's delayed responses are not afforded full consideration by the Planning Inspectorate and other interested parties.
- Responses received after the close of the Examination are not considered.
- Reputational damage from the Council's delayed input.
- Scheduling of additional and time consuming Full Council meetings with no certainty that a meeting would be able to be arranged at short notice to fit with the statutory timescales.

## **8. Environmental impact**

- 8.1 The climate change implications of the HNRFI will be assessed through the DCO process and the Council's Green Officer is part of the Council's project team and so will be involved in consultation responses.

## **9. Other significant issues**

- 9.1 In preparing this report, the author has considered issues related to Human Rights, Human Resources, Equalities, and Public Health Inequalities and there are no areas of concern.

Significant issues relating to legal matters and climate change have been addressed at paragraph 4.4.

## **10. Appendix**

- 10.1 None

## **11. Background paper(s)**

- 11.1 There are a range of relevant documents associated with the proposal on the councils website, and at

<https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/hinckley-national-rail-freight-interchange>

## **12. Report author's contact details**

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