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To: Executive
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Status: Non Key Decision
Ward(s) Affected: All
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Lead Executive Member: Cllr Richard Musgrave, Lead Executive Member for Place Shaping
Lead Officer: Dave Caulfield, Director of Economic Regeneration and Place

Title: Update on HS2 Phase 2b

Summary:

This report provides the Executive with an update on High Speed 2 (HS2), outlining work undertaken to date; key future milestones; and arrangements currently in place for the Service Level Agreement (SLA) and Non-Disclosure Agreement (NDA). The Executive are asked to consider proposals for reporting and delegation of decisions relating to HS2.

Recommendations:

- i. The Executive notes the contents of this report.
- ii. The Executive endorses the reporting processes and delegations recommended at para 4.1 of this report.

Reasons for recommendation:

Establishing appropriate delegations will enable an efficient engagement process that will help to speed up service delivery and reduce costs.

1. Introduction and background

- 1.1 In November 2016 the Government confirmed its preferred route for Phase 2b of the High Speed 2 (HS2) network. The section of the route that impacts Selby District is approximately 7km in length and enters the district east of Mickelfield and joins the existing Church Fenton to York line at Ulleskelf. The Oakervee

Review, which provided an independent review of HS2, was published in February 2020 and confirmed no changes to the Selby District section of the route.

- 1.2 At the same time, the Government announced its intention to draw up an Integrated Rail Plan for the north and Midlands, to identify the most effective scope and sequence of relevant investments and how to integrate HS2, Northern Powerhouse Rail, and other rail investments. The Interim Report by the National Infrastructure Commission was published on 15 July 2020. This report acknowledges the challenges of the Covid-19 Pandemic but makes clear the importance of bringing forward infrastructure investment to support the recovery, including accelerating the delivery of HS2 Phase 2b. The final report will be published in November 2020 and will set out the different options, alongside an assessment of the potential benefits of each package.
- 1.3 An update was received from HS2 Ltd during September 2020, in which Officers were informed that the next Hybrid Bill will now only cover the western leg of HS2 (i.e. to Crewe and Manchester). The message from HS2 Ltd is still very much that the eastern leg will happen, but the review by the National Infrastructure Commission will look at ways in which the eastern section can be progressed quicker and it might be that parts of the eastern leg are considered in stages rather than by one hybrid bill. The situation will be clearer once the final report is published next month.
- 1.4 To date, officers from Selby District Council and North Yorkshire County Council have had ongoing involvement with HS2 Ltd on the technical development process involved with continuing route design and refinement. Officers have provided updates to the Executive in June 2018 and January 2019.
- 1.5 The Council's position on HS2 was formalised by the Executive on 7 June 2018, where it was agreed that if the development of the route goes ahead, Selby District Council should seek to minimise any adverse local impacts as well as maximise the benefits of Selby District's residents and businesses.
- 1.6 In January 2019 the Executive agreed formal comments on HS2's Working Draft Environmental Statement (WDES). Comments on the WDES, along with ongoing refinements to the scheme, will feed into the final Environmental Statement which will be submitted when the Draft Bill is deposited in Parliament.

2. Key milestones

- 2.1 Key milestones for the eastern leg will be clearer once the National Infrastructure Commission report is published later this year. However, the main stages of the process are outlined below.

The Hybrid Bill

- 2.2 The Hybrid Bill will comprise a number of documents, including the Environmental Statement.
- 2.3 The Hybrid Bill process allows for Selby District Council to defend its position on any parts of the scheme that it is not happy with, through the submission of petitions to Parliament and through appearance before Select Committee. There will also be the opportunity to enter into undertakings and assurances, which are binding agreements with HS2 Ltd which will be negotiated in the period between the petition being received in Parliament and the Select Committee appearance, with the aim to reduce the amount of time spent discussing outstanding issues at Select Committee.
- 2.4 Once the Bill receives Royal Assent, the Act will provide deemed planning consent, which is similar to Outline Planning consent, and will provide the powers by which HS2 will be constructed and operated.
- 2.5 Furthermore, once the Bill has received Royal Assent, HS2 will be in a position to submit detailed planning applications (similar to reserved matters applications) to relevant Local Planning Authorities.

Planning Regime

- 2.6 The Hybrid Bill gives each impacted local planning authority a choice between having a wide range of controls or narrow range of controls. Local planning authorities opting for a wider range of control are referred to as 'Qualifying Authorities'. Should SDC opt to have a wider range of control SDC will be required to sign the 'Planning Memorandum', which is expected to be available in draft form for officer review prior to the deposit of the Hybrid Bill.
- 2.7 Qualifying Authorities will be able to approve the detailed designs of permanent structures such as viaducts and also have an enforcement and approval role in relation to certain construction matters. In agreeing to these controls, qualifying authorities are required to handle requests for approval in an expeditious manner (i.e. within 8 weeks unless agreed otherwise), and to ensure appropriate consultations are carried out and delegated authority procedures are in place.
- 2.8 It is important to note that LPAs have the scope to scrutinise, reject or request amendments to application submitted by HS2 Ltd. This is made clear in the Hillingdon Court of Appeal Decision which states that, "...a local planning authority is under no duty to process a request for approval from HS2 Ltd unless it is accompanied by evidence and information adequate and sufficient to enable the authority to perform its statutory duty." Therefore, going forward HS2 Ltd will be required to provide much more detailed information in planning applications. This in turn will have implications on resourcing including specialist advice to review specific documents.

- 2.9 By signing the 'Planning Memorandum' and becoming a 'Qualifying Authority' SDC will be able to enter into a post Royal Assent Service Level Agreement which will enable officer time to be charged back to HS2. This is as opposed to charging application fees.
- 2.10 Whilst SDC will be able to charge back officer time, it is noted that this will have significant resource implications on the Planning Service in respect of Officer involvement in providing ongoing pre-application advice and determining detailed planning applications.
- 2.11 Officer involvement in the pre-application process is expected to intensify leading up to the deposit of the Hybrid Bill and throughout the Hybrid Bill Process. Post-Royal Assent planning applications are expected to be substantial in number and frequency. They are expected to be submitted between 2023 and 2033. HS2 is required to provide the Council with a forward programme of requests for approval covering a 6-month period.

Construction & Operation

- 2.12 Construction is expected to start in 2023 and operation of HS2 is planned to start by 2033. It is noted that this will have implications on Planning Enforcement through ensuring compliance with the Code of Construction Practice.

3 Non-Disclosure Agreement & Service Level Agreement

- 3.1 Selby District Council signed a Service Level Agreement (SLA) with HS2 Ltd in January 2020, which recognises that the project places additional demands on the Council's resources. This has allowed the authority to invoice HS2 for officer time and expenses incurred to date for providing data and attending meetings at the request of HS2. Although this SLA is somewhat limiting in that it does not currently meet the rates for Officer time.
- 3.2 A further SLA will be required Post-Royal Assent to cover the reimbursement of Council resources in determining detailed planning applications for HS2.
- 3.3 Despite ongoing work and meetings with HS2 to discuss evolving route design and refinement, Selby District Council do not have a signed Non-Disclosure Agreement in place. However, Officers are working towards getting this agreement in place.

4 Reporting Processes and Delegations

- 4.1 It is important to establish clear reporting processes and delegated powers going forward, particularly given it is likely that some information requests and engagement with HS2 Ltd will need a rapid response. To ensure efficient and effective decision making and project awareness at the appropriate level, the following is recommended:

- Decisions, on matters such as the signing of the NDA, any future SLAs and the Planning Memorandum, will be delegated to the Director of Economic Regeneration and Place in consultation with the Lead Executive Member for Place Shaping
- Information updates – as required, will be given to the Director of Economic Regeneration and Place and the Lead Executive Member for Place Shaping.

4.2 Notwithstanding the above information, a further update will be provided to the Executive following Royal Assent.

Alternative Options Considered

4.3 No other options have emerged

5 Implications

5.1 Legal Implications

Not applicable

5.2 Financial Implications

Officer time will be required to continue to engage with HS2 Ltd and going forward the determination of planning applications is likely to have significant resource implications for the Council. Whilst planning applications won't be subject to fees, the SLA will ensure an element of financial compensation.

5.3 Policy and Risk Implications

Not applicable

5.4 Corporate Plan Implications

The Council Plan 2020-30 outlines the Council's ambition to make Selby District a great place to live, a great place to enjoy and a great place to grow. The development of HS2 can have a transformational impact on how local employers do business in the district and how residents enjoy life. For our businesses, HS2 will improve access to talent, supply chains and markets, whilst residents will benefit from wider employment and skills opportunities and improved connectivity to some of the UK's major cities. However, it is also important to recognise that the development of the project could have a significant impact on the communities affected by the route and their ability to enjoy life. The Council should seek to minimise any adverse local impacts through ongoing officer engagement with HS2 Ltd.

5.5 Resource Implications

Ongoing engagement with HS2 Ltd is likely to impact on service capacity during the lifetime of the project, particularly once the Hybrid Bill has been submitted to Parliament, in terms of activities around parliamentary lobbying and dealing with planning applications.

5.6 Other Implications

Not applicable

5.7 Equalities Impact Assessment

Not applicable

6 Conclusion

6.1 The Council has been considering issues related to HS2 over a number of years. Officer involvement in the pre-application process is expected to intensify leading up to the deposit of the Hybrid Bill and throughout the Hybrid Bill Process. Post-Royal Asset planning applications are expected to be substantial in number and frequency

6.2 Establishing appropriate delegations and reporting processes will enable decisions to be made quickly and efficiently and ensure project awareness at the appropriate level.

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