



Report to: Cabinet Meeting: 4 June 2024

Portfolio Holders: Councillor Paul Peacock, Strategy Performance & Finance  
Councillor Matthew Spoons, Sustainable Economic Development

Director Lead: Sanjiv Kohli – Deputy Chief Executive & Director – Resources  
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Report Summary	
<b>Type of Report</b>	Open report, key decision
<b>Report Title</b>	A46 Newark Bypass
<b>Purpose of Report</b>	To provide an update on the A46 Newark Bypass, including the decision-making process for the project as one of several Nationally Significant Infrastructure Projects (NSIPs) the Council will be involved with in the coming years and the consequential impacts for the Council as landowner along the preferred A46 route.
<b>Recommendations</b>	That Cabinet: <ul style="list-style-type: none"> <li>a) note the update provided in the report and the role of the Planning Committee and Director – Planning &amp; Growth in responding on behalf of the Council as Local Planning Authority; and</li> <li>b) authorise delegated authority to the Director of Resources/Deputy Chief Executive, in consultation with the Portfolio Holder for Strategy, Performance &amp; Finance and the Portfolio Holder for Sustainable Economic Development, to issue consultation responses in relation to the Council’s interests as affected landowner and any other executive functions if required, on behalf of the Council to the Development Consent Order process, with any final financial and/or physical works settlement to be brought back to Cabinet.</li> </ul>

<p><b>Alternative Options Considered</b></p>	<p>The A46 Newark Bypass proposals have long been an important aspiration of the Government’s National Road Investment Strategy (RIS), an aspiration supported by a raft of partners including this Council, Midlands Connect, Nottinghamshire County Council, Lincolnshire County Council, and a number of highway, LEP and Local Planning Authorities from the Humber Ports to Tewkesbury. There is no alternative but for this Council to engage, both as Local Planning Authority and affected landowner.</p> <p>Options available to the Council as landowner as explored further below.</p>
<p><b>Reason for Recommendations</b></p>	<p>To keep Members updated on the A46 Bypass proposals and the requirements upon the Council to respond as both Local Planning Authority and affected landowner.</p>

## 1.0 Background

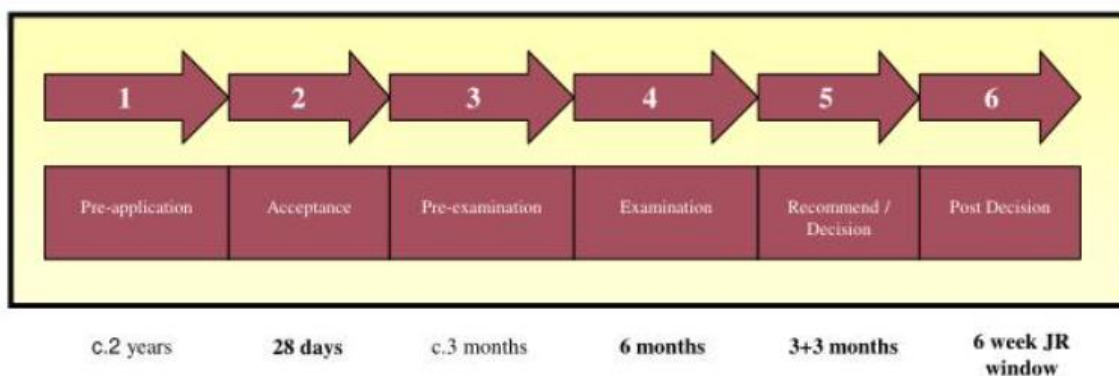
### **National Significance**

- 1.1 Members will recall that the A46 Newark Bypass has been long-lobbied for by several tiers of government and industry locally, regionally and nationally. The then-titled A46 Newark Northern Bypass was accepted as nationally significant as part of the National Road Investment Strategy 2 (2020-2025). National Highways and their appointed design and build contractors Skanska have been progressing the scheme since.
- 1.2 Given the scale and complexity of this project, much like any other major highway scheme, there is a lengthy process involved. To date, there has been non-statutory public consultation (December 2020), statutory consultation (October 2022), and various technical consultations and negotiations with this Council and other Councils, alongside affected landowners and communities along the route of the proposed Bypass. The proposals are now entering a formal acceptance stage, with an application from National Highways for a Development Consent Order (DCO) having been submitted to the Planning Inspectorate. They are currently within the 28-day acceptance period with a decision on whether the application is to proceed further, expected by the end of May 2024.

### **What is a Nationally Significant Infrastructure Project (NSIP), Development Consent Order, and the process.**

- 1.3 Nationally Significant Infrastructure Projects (NSIP) are large scale projects falling into five general categories (Energy; Transport; Water; Waste Water and Waste), which are considered by the Government to be so large and **nationally** important that permission to build them need to be given at a national level, by the responsible Government minister (the ‘Secretary of State’). Thresholds for infrastructure developments considered to be nationally significant are set out in the Planning Act 2008, with amendments under the Localism Act 2011.

- 1.4 Instead of applying to the local authority for Planning Permission in the normal way, the developer/applicant must apply to the Planning Inspectorate for a different permission called a Development Consent Order (DCO).
- 1.5 A DCO follows a strict timetable and procedure as set out by the Planning Inspectorate and removes the need to obtain several separate consents and is intended to be a quicker process. The final decision is taken by the Secretary of State, the elected minister with responsibility for the area of policy.
- 1.6 The Planning Act 2008 introduced the NSIP process to streamline the decision-making process for major infrastructure projects, making it fairer and faster for communities and applicant alike. There are six stages in the process which are outlined below and the bold text refers to the statutory timescales which have to be adhered to. If the Application is successful, the Secretary of State will grant the DCO in respect of the Application. The relevant Local Authority then becomes responsible for discharging and monitoring any requirements (similar to planning conditions) of the DCO and associated legal agreements.



- 1.7 It is important to stress that once the application has completed the acceptance stage, the Inspectorate will then issue statutory timeframes and a timetable that we must meet in order for our statutory function to be exercised. Deadlines for hearings or responding to information from the Inspectorate can be at short notice. This is not a process that we can be disengaged from and once a start date has been given (expected by the end of May 2024) we have a statutory duty to see it through to completion.
- 1.8 Newark & Sherwood District Council is a statutory consultee for these projects which means we can make comments but do not make the final decision on whether the schemes are approved or not.

## 2.0 Requirements and Recommendations

### **The Council as Local Planning Authority**

- 2.1 As detailed above the Development Consent Order places a requirement upon this Council to respond to set timescales as part of the DCO process. Timescales to reply can vary from weeks to days, the latter often linked to what may arise at the Examination sessions themselves. A separate report regarding delegation of authority in respect of regulatory planning issues is being submitted to the Council's Planning Committee on 6<sup>th</sup> June 2024. The need to coordinate the Council's regulatory replies affects colleagues

and teams beyond the Planning Business Units (Planning, Development & Planning Policy & Infrastructure) notably legal and Environmental Services (particularly on matters relating to noise and air quality); responses by these teams would be categorised as technical and operational, i.e. administrative in nature and therefore already delegated to Officers under the Officer Scheme of Delegation in the Council's Constitution.

2.2 The Council is required to enter into a Planning Performance Agreement (PPA) with National Highways that will outline the respective commitments of each party. For National Highways this includes covering the reasonable costs of the Council in responding as the Local Planning Authority. Delegated authority is already in place for the Council to enter into a PPA.

2.3 It is proposed that progress reports will be presented to Cabinet and Planning Committee at appropriate junctures to update members on progress.

#### **2.4 The Council as Landowner**

As a consequence of the A46 Bypass the impact on the Newark Lorry park is estimated to be a reduction of 36 spaces as a result of land-take required to accommodate the road and associated infrastructure. This will lead to a loss of income, triggering a legitimate need for compensation. Additionally, the Council will lose land, which itself has a value which will need to be paid to the Council based on valuations yet to be agreed between the parties. There will also be a compensation of disturbance payments for impacts to the lorry park during construction which are to pay for any requirements such as new fencing. This would be paid for by National Highways as acquiring body but carried out by NSDC as landowner and will be negotiated on the same basis as the land compensation. NSDC should also be entitled to the full amount of basic loss payment and occupiers loss payment. In addition to this compensation National Highways will be required to build a new access to the lorry park as part of the implementation of the widening of the Great North Road. The existing CCTV mast will also be affected and may require relocation.

2.5 It is recommended that the Director for Resources/Deputy Chief Executive, in consultation with the Portfolio Holder for Strategy, Performance & Finance and the Portfolio Holder for Sustainable Economic Development, and Business Manager, Corporate Property continues negotiations on behalf of the Council as landowner.

#### **3.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### **Financial Implications (FIN24-25/8763)**

- 3.1 At the time of writing the Council and National Highways have yet to agree the costs that will be provided by National Highways to the Council to cover both expenditure incurred to date and future likely impacts as part of the Councils role as Local Planning Authority. This includes the cost of highway advisors who have undertaken some design work in order to aid negotiations with National Highways. Until such time as costs are agreed to recover both spend-to-date and future spend the Council remains at risk of incurring further costs, for which at the time of writing the report, there is sufficient funding available to cover expected fees from the budget set aside for the Gateway project which has been paused following the Cabinet decision on 14 May 2024. All costs incurred to date have had budget availability. Once these costs have been agreed, a further report will be tabled to Cabinet.
  
- 3.2 Negotiations with National Highways on behalf of the Council as landowner are ongoing. Sufficient compensatory payments to cover specialist advice that needs to be commissioned (land valuations, legal support), compensation for the loss of lorry park spaces and associated income, compensation for the costs of relocating the CCTV mast, the delivery of a relocated entrance, and monitoring of and compensation of lost income during implementation of works will all need to be negotiated and reported back to Cabinet at a later date.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Cabinet Report 14 May 2022 - Newark Towns Fund Update

Cabinet Report 7 June 2022 - A46 Northern Town Bypass and Newark Towns Fund

Cabinet Report 6 December 2022 - A46 Northern Town Bypass and Newark Towns Fund

Economic Development Committee Report, January 2022

Policy & Finance Committee Report, 17 March 2022

Newark Town Investment Plan 2020