



Report to: Cabinet Meeting: 23 July 2024

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

Director Lead: Sanjiv Kohli – Deputy Chief Executive & Director – Resources
 Matt Lamb, Director - Planning & Growth

Lead Officers: Mark Eyre, Business Manager - Corporate Property, Ext. 5440
 Matthew Norton, Business Manager – Planning Policy & Infrastructure,
 Ext. 5852

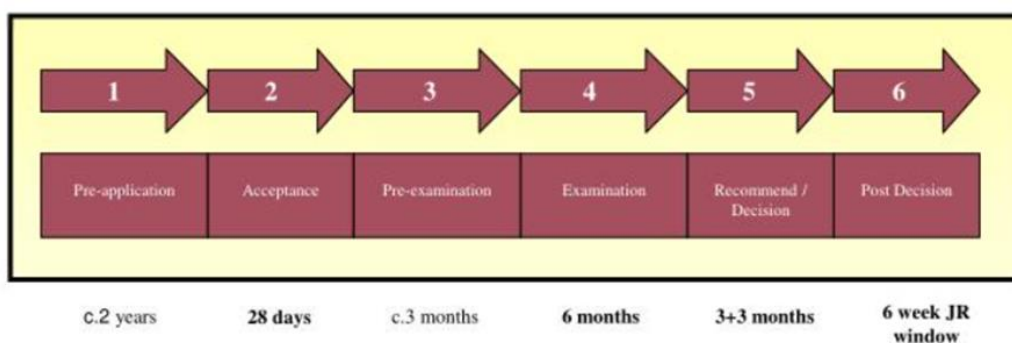
Report Summary	
Type of Report	Open report, key decision
Report Title	A46 Newark Bypass
Purpose of Report	To provide an update on the A46 Newark Bypass
Recommendations	<p>That Cabinet:</p> <ul style="list-style-type: none"> a) note the updated position and the consultation representations appended to this report; b) approve a budget of £141,000 in order to allow the ongoing work of the Council as Local Planning Authority and Landowner. This amount of £141,000 to be funded from the Change Management Reserve as set out in paragraph 3.3 of this report; and c) note that some but not all costs will be recoverable as detailed at paragraphs 2.4 below.

<p>Alternative Options Considered</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>Reason for Recommendations</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. The DCO has now been formally ‘accepted; meaning the Council must now reply with mandated timetables. However at this stage we are awaiting the Rule 6 letter from the Examining Authority (EA) (Planning Inspectorate) which sets out the timetable for the rest of the Examination stage (stage 4 below). Therefore the chart below is very generic.



The only fixed date deadline we have from the EA at present is the submission of Relevant Representations and the deadline for this is outlined below. This deadline is for both NSDC as landowner and the Local Planning Authority to meet.

Activity	Deadline
Application to the Secretary of State giving notice of any interest or objection to the application, known as Relevant Representations.	11:59pm on the 14 th July 2024

- 1.3 The Council's Relevant Representations as landowner and Local Planning Authority were submitted prior to the deadline of the 14th July 2024. They are available to view at Appendix 1 and Appendix 2 respectively.

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 was supported by the Planning Committee on 6th June 2024. A number of Council teams are now involved in preparing the Council's reply, notably the Planning Business Units (Planning, Development & Planning Policy & Infrastructure) legal and Environmental Services (particularly on matters relating to noise and air quality).
- 2.2 The Council is currently negotiating with National Highways on entering into a Planning Performance Agreement (PPA) 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. There is now some greater clarity on costs involved, notably with respect to legal support. This support includes legal review of formal submissions by the District Council, legal representation at the Examination Hearings and consideration of the Section 106 Agreement. Whilst the principle remains that Officers will seek full cost recovery this is not possible in all circumstances. For the avoidance of doubt the overall costs required to support the Council as Local Planning Authority are considered to be £67,000.

2.3 **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.

2.4 The costs forecasted for surveying fees and legal fees as land owner total £74,000 and cover a broad range of activities throughout the DCO process but generally covers the following:

- Drafting and agreeing the letter setting out relevant representations.
- Agreeing statement of common ground with National Highways.
- Responding to written questions from the Examining Authority (assuming two rounds).
- Drafting and agreeing written representations expanding and updating relevant representations.
- Preparing for and attending (as NSDC's representative) compulsory acquisition hearing.
- Monitoring progress of the DCO application, including changes to relevant provisions, timetables and new documentation issues.
- Negotiating heads of terms and agreement with National Highways including meetings with NSDC and National Highways and their solicitors and advising on its terms.
- Day to day case management, attendance at meetings organised by NSDC and National Highways on general design issues and amendments to scheme.
- Preparation of formal report and recommendation.
- Expert property report for DCO Examination.
- Negotiation of agreement/claim.

2.7 Professional fees in making relevant representations in the context of a DCO examination are not normally recoverable from the promoter of the DCO but it may be possible to seek full or partial reimbursement in the context of an agreement (or make it a condition of entering into negotiations).

2.8 This estimate of costs for negotiating an agreement with National Highways will depend on the approach taken by the parties and the extent to which issues can be agreed by principals. These fees may change if parties were not to reach an agreement. Regular updates to members will be provided by officers at key points of the process.

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. As identified above at paragraph 2.2 an additional £67,000 is necessary in order to progress works as Local Planning Authority. It is likely that some of this cost will be recoverable but at this point that is not identifiable. Once this is known, a further report will be brought back 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. In order to progress works identified in paragraphs 2.3 and 2.4, an additional £74,000 is required. It is likely that some of this cost will be recoverable but at this point that is not identifiable. Once this is known, a further report will be brought back to Cabinet.
- 3.3 The A46 Newark Bypass report, approved on the 4th June 2024, referenced in the financial implications that 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 14th May 2024. Those funds amount to £302,779 which are currently sat within the Change Management Reserve. It is therefore proposed to allocate £141,000 of this reserve to fund the expenditure referenced in this report. The remaining £161,779 will then be decommitted. Any funds that are then negotiated to be reimbursed by National Highways will be returned to the Change Management Reserve.

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