

HIGH SPEED RAIL UPDATE

Cabinet Members	Councillor Ray Puddifoot Councillor Keith Burrows
Cabinet Portfolios	Leader of the Council Planning, Transportation and Recycling
Officer Contact	Jales Tippell Residents Services
Papers with report	Appendix 1: Letter to the London Assembly Environment Committee on the Government's HS2 Phase One Design Refinement Consultation. Appendix 2: Letter to the London Assembly Transport Committee on the Government's HS2 Phase One Design Refinement Consultation. Appendix 3: Response to the Government's HS2 Phase One Design Refinement Consultation. Appendix 4: Response to the Government's HS2 Phase One draft Environmental Statement Consultation.

HEADLINE INFORMATION

Summary	This report updates the Cabinet on the Government's proposals for High Speed Rail, including an update of the legal challenge and seeks Cabinet endorsement for responses to both the Government's HS2 Phase One Design Refinement Consultation and the HS2 Phase One draft Environmental Statement Consultation.
Contribution to our plans and Strategies	Hillingdon's emerging Local Plan Hillingdon's Unitary Development Plan Saved Policies 2007 Hillingdon Partners Sustainable Community Strategy
Financial Cost	The Council's 2011/12 Development and Risk contingency includes £100,000 that was earmarked for any potential challenge against the High Speed 2 rail link.
Relevant Policy Overview Committee	Residents' and Environmental Services Policy Overview Committee
Ward(s) affected	South Ruislip, Manor, West Ruislip, Ickenham, Harefield,

RECOMMENDATIONS

That the Cabinet:

- 1. Notes the contents of the report, including the current position in relation to the legal challenge against HS2.**
- 2. Notes the letters sent to the London Assembly's Environment and Transport Committees regarding the Government's HS2 Phase One Design Refinement Consultation as set out in Appendices 1 and 2.**
- 3. Endorses the response that has been submitted to the Government's HS2 Phase One Design Refinement Consultation as set out in Appendix 3.**
- 4. Endorses the response that has been submitted to the Government's HS2 Phase One draft Environmental Statement Consultation as set out in Appendix 4.**
- 5. Strongly appreciates the efforts of local residents groups that have been established in response to the HS2 proposal and reaffirms this Council's commitment to work closely with and support them as the campaign progresses;**
- 6. Reaffirms that the Leader of the Council can continue to take all necessary action to oppose the Government's proposals for High Speed Rail, including legal action, funding and partnerships with the 51M Group and any other local authorities / organisations; and furthermore agrees that delegated authority be given to the Borough Solicitor and the Deputy Chief Executive and Corporate Director of Residents Services to formally implement any actions directed by the Leader.**
- 7. Instructs officers to take the necessary agreed actions to oppose the Government's proposals for High Speed Rail, including joint working with the 51M Group including any further contributions to it, and to report back to Cabinet on any significant issues.**

INFORMATION

Reasons for recommendation

The proposed High Speed 2 (HS2) rail line is likely to be the most significant development proposal in Hillingdon since the 3rd Runway. Its adverse impacts are considered to be far in excess of the benefits that will ensue from the proposal.

By responding to the two consultations the council will be ensuring that potential impacts on communities are identified and appropriate mitigation measures sought for the borough.

The council, as part of the 51m Group, took legal action to the Court of Appeal at the High Court in June 2013 and a Judgement is anticipated by the end of July. Dependant upon the outcome of this, the Council and the 51m Group may need to consider further legal action including whether to appeal to the Supreme Court.

Alternative Options Considered.

The alternative option would be for the Cabinet to decide not to respond to the consultations. This is not considered to be an appropriate option due to the adverse impacts that HS2 will have upon residents of the Borough.

The Cabinet could agree to halt legal action against the HS2 proposal and not pursue any potential action at the Supreme Court, should it be appropriate. Again this may not be considered to be an appropriate option due to the adverse impacts that HS2 will have upon residents of the Borough.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting information

Background

1 The Cabinet Report in July 2011 set out the Council's response to the Government's consultation on HS2. This 134 page submission emphasised our concerns on the approach to the high speed rail strategy; the insufficient assessment of alternatives; lack of alignment with other government strategies, most notably the aviation strategy; and gave specific details on the devastating local impacts the proposed high speed route would bring to large parts of the borough. This report updates the progress of HS2; seeks Cabinet endorsement of the consultation responses in relation to the two recent HS2 consultations on the Phase One Design Refinement and the Phase One draft Environmental Statement; and provides an update on steps taken to legally challenge the decisions made by the Government to date.

Update on High Speed Two

2. In January 2012 the Government set out its 'Decision' to proceed with the HS2 project in its document 'High speed rail: Investing in Britain's future – decisions and next steps' (DNS). This document totally ignored the consultation responses that challenged the the heart of the principle of high speed rail and the route chosen. Instead the document included decisions to:

- proceed with the full Y network as was consulted on in 2011;
- broadly proceed with the London to Birmingham route as previously consulted;
- proceed with the Heathrow spur as previously consulted

3 On a positive note the DNS indicated that consultation responses had exerted influence in some respects. because the decision to proceed included a tunnel from the Lord Halsbury Memorial Recreation Ground in Ealing through to Ickenham High Road. For Hillingdon residents the inclusion of a tunnel was a significant improvement because the impacts of land take, visual intrusion, noise and vibration and the associated construction impacts such as in Blenheim Crescent, Roundways, Herlwyn Avenue, Lawn Close and Almond Close were much reduced.

4 The inclusion of the tunnel at Ruislip also negated the harm posed by impacts at the Victoria Road Waste Transfer Station and there is no longer a requirement for the major

bridge works previously identified at Long Drive and Bridgewater Road. Furthermore the Recreation Ground at Ruislip and the Yeading Brook are also no longer impacted.

5 The DNS did however result in adverse impacts arising from the construction of, and operation of two tunnel portals, one in Ealing close to the eastern boundary of the borough and the other close to West Ruislip station.

6 The decision by the Government to retain the viaduct over the Colne Valley has meant that the disruption to the Hillingdon Outdoor Activities Centre (HOAC) is still severe and there are significant landscape and noise implications.

7 The DNS was confusing in relation to Heathrow. Whilst confirming the commitment for a Heathrow spur, the information in the accompanying documentation does not give any detailed information as to where the links will actually be.

8 Given that fundamental objections by the Council and 51m to the Government's consultation in respect of the HS2 strategy and preferred route were not satisfactorily addressed, the Council as part of 51m took the decision to take legal action. In February 2012 the letter before action was sent to the Secretary of State announcing the intention to seek a judicial review of the 'Decision' to proceed with HS2 on the basis that the 'Decision' was unlawful. An update on the legal challenge is provided in paragraphs 70-80 below.

The Council's engagement with the HS2 project to date

9 Since the publication of the January 2012 decision document, HS2 Ltd has pressed on with progressing the proposal. The council has continued to attempt to influence the work of HS2 Ltd in order to obtain the best result for our communities. The work to date has included:

- a) Environmental Impact Assessment (EIA) – consultation on scope and methodology

10 In May 2012 Hillingdon co-ordinated the 51m response to the EIA scoping report. The conclusion was:

“The draft Scope and Methodology report is ill conceived and totally inadequate. It neither provides sufficient detailed information to allow an understanding of impacts and receptors, nor does it provide suitable outline methodologies on which to base comments. 51m understand the purpose of carrying out early consultation and supports the approach; however, the level of information provided by HS2 Ltd needs to be commensurate with the questions being asked of consultees. This is far from the case for this consultation. Instead, detailed project information is not provided, and the quality of some of the methodologies is far from adequate even at an outline stage.”

11 It should be noted that in November 2012, HS2 Ltd published a revised EIA scoping report. Whilst this made some changes to reflect consultation responses, in principle there were still a number of glaring omissions and no real change of direction on the approach to the assessment by HS2 Ltd.

- b) Heath Impact Assessment – questionnaire on scope

12 In November 2012, the council submitted a response to the questionnaire on scoping for the draft health impact assessment. The council's Head of Public Health raised significant concerns about the approach being undertaken and of the lack of detailed information for comment.

c) HS2 Ltd Safeguarding Consultation and HS2 Ltd Property and Compensation Consultation

13 In January 2013 the council responded to both the above consultations. The opportunity was taken to reinforce the council's concerns about the inadequacy and unfairness of both of the consultations, including the lack of adequate information on which to fully understand the impacts. It was highlighted that the HS2 project itself should fully compensate the real costs to impacted communities and individuals and that compensation schemes should be sufficient to ensure this. The council drew particular attention to the need to have the same schemes offered in urban and in rural areas and not attempt to minimise the compensation schemes for urban areas simply because the costs, due to the number of properties impacted, would be greater. The council's responses are available on Hillingdon's website. The Government ignored the concerns of the council and others who raised objections and instead it formally adopted safeguarding directions for Phase One of HS2 Ltd on 9 July 2013. As a consequence of the directions being issued, councils are now required to consult HS2 Ltd with regard to planning applications in the safeguarded area along the HS2 route before granting planning consent.

d) Publication of Phase Two route by HS2 Ltd

14 On 28th January 2013, HS2 Ltd published 'Phase Two: the route to Leeds, Manchester and beyond'. This alerted the communities further north, which had previously been relatively silent on the high speed rail proposals, to the potential local impacts of the project. The announcement within this report, that work on the Heathrow Spurs had been officially put on hold until the Airports Commission reported its recommendations in mid 2015, was also of strategic significance

15 The Airports Commission was set up in late 2012 to look at short, medium and long term options for UK aviation. This provides clear evidence that the borough were correct to raise the concern that the high speed rail and aviation strategies should have been properly aligned to enable informed decisions.

16 Unfortunately whilst the Heathrow Spur work was officially paused, the Exceptional Hardship Scheme consultation for Phase 2 included the Heathrow Spur along with outline details of the route. This has caused unnecessary concern and potential blight for a portion of the route which may never be enacted.

Current HS2 Ltd Consultations

17 On 16th May 2013, the Government launched two separate consultations, i.e. on the HS2 Phase One Design Refinement and the Phase One draft Environmental Statement. These consultations ended on 11th July and this Cabinet report seeks endorsement of the responses submitted to the Government.

HS2 Phase One Design Refinement Consultation

18 A summary of the consultation and the council's response is set out below and the full response is at Appendix 3.

19 There are 14 proposed changes to the design of the route that go beyond the normal process of design development. The Secretary of State for Transport has decided to consult on these proposed changes before making a final decision on whether to include them within the design that will be submitted to Parliament alongside the Hybrid Bill. There are three route refinements that impact upon Hillingdon.

a) Route Change 4 - Northolt Corridor

20 The route has been altered to include an extended tunnel section from Old Oak Common right through to West Ruislip which negates the need for a tunnel portal just to the east of the borough boundary and removed the need for potential construction safeguarded areas close to residential areas in Rabournmead Road.

21 Whilst supportive of the increased tunnelling to avoid the construction and operation of a tunnel portal in the eastern part of the borough, the document refers to an increase of around 1.3 million cubic metres in excavated material that would need to be removed from the tunnel worksites in the industrial areas adjacent to Old Oak Common and West Ruislip. No detail is given as to any resulting impacts from this increased construction work.

b) Route Change 5 - Heathrow Junctions

22 To avoid future disruption to an operational Phase One high speed line, this route refinement proposes passive provision now for the future connections to Heathrow, as part of the Phase One Hybrid Bill.

23 This passive provision will require the cutting to the east of Harvil Road to be approximately 20 metres wider for about 650 metres before the proposed scheme crosses the Colne Valley on a viaduct.

24 There are significant objections to this proposal. The inclusion of the Heathrow junctions in Phase One appears to be pre-judging the recommended options from the Airports Commission which are due in 2015. The two strategies i.e. high speed rail and aviation, should be aligned in terms of timescales. The remit of the Airports Commission includes assessing all options and this has led to speculation about a new hub airport and the potential closure of Heathrow. Given this uncertainty about the future of Heathrow, it seems ill-judged to pave the way for the HS2 junctions prior to a decision on the future of Heathrow airport.

c) Route Change 6 - Colne Valley Viaduct

25 The proposed route refinement has moved the HS2 line 60 metres to the north to minimise the length of span across the Rover Colne. Whilst this reduces the impact on the River Colne, it moves the viaduct closer to the residential areas in Harefield and also requires further demolitions at the Merck research centre and Dews Farm.

26 It is considered that this route refinement should be rejected in favour of a tunnel from London continuing under the Colne Valley, which would represent the best option for residents. This would remove noise impacts from residents near the tunnel portal in West Ruislip and near the proposed viaduct. It would also remove the need for the demolition of a number of properties within the borough and also preserve the well loved regional community resource that HOAC provides.

Influencing the London Assembly

27 A council officer and also a representative of the Ickenham Residents Association attended a London Assembly Environment Committee meeting on 12th June 2013 to discuss the HS2 Phase One draft Environmental Statement Consultation. Officers have also submitted written comments to both the Environment and Transport Committees in order to inform their responses to the HS2 Ltd Design Refinement consultation. These comments, which are included at Appendices 1 and 2, include seeking the support of the London Assembly to fight the irrational inclusion of the Heathrow spurs and to join the council in making the case for the tunnel from London to be extended under the Colne Valley, should the Government proceed with HS2.

HS2 Phase One draft Environmental Statement Consultation

28 The draft Environmental Statement Consultation has been accompanied by a large volume of information with an overview document and individual documents and map books for each defined area. The ones of interest to the council are Community Area Forum 6 - South Ruislip to Ickenham and Community Area Forum 7 - Colne Valley.

29 A summary of the documentation and the council's response is provided below. The full response can be found at Appendix 4.

a) Community Area Forum 6 – South Ruislip to Ickenham

Summary of the description of the area and proposed scheme

30 The route will enter the eastern side of the borough by a tunnel. The route would continue in tunnel for 4.4km, at a depth approximately 30m below ground level, before emerging via a tunnel portal at West Ruislip to the west of Ickenham Road and West Ruislip station.

31 On top of the covered section of the tunnel portal, a 30m by 35m 'head house building', approximately 9m high, would be located to the south-east of the Ruislip Golf Course. This structure would accommodate mechanical and electrical equipment rooms, emergency intervention and other facilities and would also require an area of hard-standing for maintenance and emergency services. A tunnel vent shaft and an auto-transformer station would be located in South Ruislip.

32 Heading west the route will be on embankment and then in a cutting through the southern part of Newyears Green Covert to Harvil Road. The route would require three new permanent under-bridges and one temporary under-bridge plus three new over-bridges. Demolitions have been identified as being required at ten separate locations along with 24 utility diversions in separate locations including mains gas, water mains, sewers, low and high voltage electricity lines.

33 There would be two permanent road diversions plus diversions of a public right of way and a bridleway. Drainage ponds would be required for both railway track and highways drainage. Two watercourses would require diversions during construction of the new Harvil Road Bridge; a permanent diversion for the Ickenham Stream and a temporary diversion of the Newyears Green Bourne. There will be passive provision in this area for a HS2 link to Heathrow Airport.

34 There are three main construction sites proposed in this section of route and each site is proposed to operate for a duration of seven years.

Vent shaft at South Ruislip

35 The vent shaft at South Ruislip includes the construction of the rectangular box shaft, head house building and auto transformer station with associated hard standing. The construction access route is identified as via the A40 continuing into Mandeville Road (A312), Eastcote Lane, Field End Road and Victoria Road.

Tunnel Portal at West Ruislip

36 The tunnel portal at West Ruislip includes tunnel excavation; a 570m long cutting south of Ruislip Golf Course for the ramp from the portal; and an embankment from a point south of Ruislip Golf Course to Breakspear Road South (approximately 600m long). The construction access route is identified as via the Western Avenue (A40) continuing onto Swakeleys Road (B467) and Ickenham Road (B466).

Area between Breakspear Road South and Harvil Road

37 The area between Breakspear Road South and Harvil Road includes construction of an embankment from Breakspear Road South to a point 200m to the west; a cutting between a point 200m west of Breakspear Road West to west of Harvil Road (approximately 1km in length and up to 20m deep); and embankment works from Newyears Green Bourne to south of proposed Harvil Road Marylebone to Aylesbury Line overbridge (approx 300m long).

38 The construction access route is identified as via Western Avenue (A40) continuing onto Breakspear Road South or Harvil Road. Vehicles unable to pass under the Breakspear Road South bridge would access the site via Swakelys Road (B467) continuing onto Ickenham Road (B466), the A4180 and Breakspear Road South.

b) Community Area Forum 7 Colne Valley (Hillingdon Impacts)

Summary of the description of the area and proposed scheme

39 After emerging at the tunnel portal south of the Ruislip Golf Course in West Ruislip, the route passes under the realigned Harvil Road. The route would then continue onto the 3.4km viaduct crossing over the Colne Valley, including Harefield No 2 Lake used by the HOAC.

40 Since the announcement in January 2012, the proposals for HS2 now differ in some respects with the introduction of an auto-transformer feeder station off Harvil Road and a National grid substation north of HOAC to provide traction power from national Grid power lines. Utility diversions will be needed to accommodate the auto-transformer station including a high pressure gas main and a high voltage pylon diversion.

41 The Government's Design Refinement Consultation includes a proposal to realign the Colne Valley viaduct approximately 60m further north with one viaduct supporting pier proposed within the River Colne.

42 There is the provision of earthworks and turnouts to allow for the future provision of a Heathrow Spur. This would be the minimum required area to construct the spur without impacting on the operational capacity of Phase One.

43 Two large construction sites are proposed within Hillingdon.

Colne Valley viaduct southern approach embankment

44 This site will include construction of the southern third of the Colne Valley viaduct and its approach embankment, as well as the Harvil Road Auto Transformer feeder station. Construction traffic and access would be via Harvil Road and southwards onto the A40 or via Harvil Road, Moorhall Road, the A412 (Denham Avenue) and onto the A40. The estimated duration of operation is 4 years.

Colne Valley viaduct satellite compound

45 This is a support site for the construction of the southern third of the Colne Valley viaduct and construction jetty access at HOAC. Construction traffic and access would be via Dew's Lane, Harvil Road and southwards onto the A40 or via Harvil Road, Moorhall Road, the A412 and onto the A40. The estimated duration of operation is 3 years.

46 There would be four major utility diversions within Hillingdon including a National Grid gas main close to Harvil Road, a water main to the north of Harvil Bridge, a pressured Thames Water sewerage main connecting to Harefield pumping station next to HOAC and the National Grid power line crossing the Colne Valley.

47 There is a proposed permanent diversion of Harvil Road towards the east and also a permanent diversion of the public right of way running south from Harvil Road through HOAC. The proposal requires the demolition of several buildings including Dews farm and associated buildings and three buildings associated with HOAC.

Hillingdon's response to the draft Environmental Statement

48 The council's response (at Appendix 3) is divided into two parts, firstly objections in principle to the draft Environmental Statement (dES) and its failure to comply with a number of legal requirements; and secondly the more detailed response to specific local impacts which the council believes have been severely under-estimated.

49 The main objections in principle relate to the fact that the draft Environmental Statement is not considered to be compliant with the EIA regulations. The dES simply assesses the impacts of the conclusions of the Decisions and Next Steps Document (January 2012) (DNS). It does not challenge conclusions, present alternatives or provide adequate justification for the proposed route. There is no assessment of alternatives, no assessment of cumulative impacts of Phase 1 and Phase 2 and no assessment of impacts of other planned projects such as the impact of the Heathrow link and all that implies.

50 For the above reasons the council's response makes it clear that it expects all work to now cease on promoting and developing the current proposals. The more robust and comprehensive assessment, as alluded to by the Government's legal representative in the Court of Appeal, including proper assessment of strategic alternatives and appropriate assessment of cumulative impacts, including the impact of, and re-assessment of any need for, the Heathrow link, should be fully developed, and consulted on, prior to the publication

of the final HS2 Environmental Statement, which would accompany the Hybrid Bill before Parliament.

51 In terms of local impacts, the council is particularly concerned about the inclusion of the London to Heathrow spur within the Phase 1 route, even though the full link to Heathrow is being put on hold. The dES includes two spurs, one serving 'the north' and one serving London. The extremely poor business case and the lack of information as to what the 'other' strategic reasons are for it, provide a very tenuous case for a Heathrow link at all. In addition, the inclusion of the London to Heathrow spur purportedly prevents the extension of tunnelling from Ickenham through west London and across the Colne Valley.

52 In terms of other specific local impacts, the council's response raises grave concerns over the very limited information contained in the dES, with lots of obvious gaps. This means that it is difficult to understand the potential impacts. This applies to all topics covered by the dES including carbon emissions, socio-economic issues, agriculture, air quality, community, cultural heritage, ecology, land quality, landscape, sound and vibration, water resources, traffic and transport, A number of the topic areas introduce mitigation and conclusions on effects without even knowing all the impacts and receptors.

53 In order to try to assess the potential impacts of the construction phase, the council has itself mapped the information provided in the dES on the proposed construction routes and included this in its consultation response. It is clear from this that HS2 Ltd have given insufficient regard to the impact on the borough roads and the surrounding road network and therefore underestimated the impacts on congestion, local air quality and noise and the impacts on other road users attempting to use this part of west London.

54 Notwithstanding the above, it is clear even from the limited information within the dES that the environmental impacts of HS2 will cause considerable hardship in the short term and long lasting damage to residents in Hillingdon as set out in this response. The council's consultation response makes it clear that the dES has totally under-estimated the impact of HS2 on the borough. The Colne Valley is an area of immense importance in landscape, recreational, amenity and ecological terms. The proposed viaduct will cause considerable harm to this much loved area, which could be avoided if the proposed 3,840 m long viaduct were to be replaced by 5,780m of additional tunnelling. Furthermore, in Hillingdon we have the tunnel portal just 2,210m away from the viaduct and the area in between will become a massive construction site within a densely populated area with no easy access to the A40 or motorway network. Based on the findings of the dES, it is therefore requested that HS2 Ltd now take the necessary mitigation action to extend the tunnel from London through to the western side of the Colne Valley.

Community Engagement with HS2 Ltd

55 Following the Government's decision in January 2012 to proceed with the proposal, HS2 Ltd set up Community Area Forums. In Hillingdon this was divided into two areas, the South Ruislip and Ickenham Forum and the Colne Valley Forum which encompassed parts of Harefield and South Bucks.

56 The Community Area Forum reports accompanying the draft Environmental Statement confirms there have been five separate meetings in each area and details areas of concern raised by the communities.

South Ruislip and Ickenham

57 The main themes to emerge from the meetings are identified by HS2 Ltd as:

- Relocation of utility services including requiring co-ordination between all relevant parties to avoid longer than necessary localised disruption;
- Heathrow spur location being above ground and the construction timetable associated with this;
- Methods of tunnel construction;
- Environmental surveys;
- Position of tunnel portal and the potential extension of the tunnel westward under the River Pinn;
- Noise and vibration during construction and operation, particularly for homes near cuttings and at the tunnel portal; and
- Location of construction sites and proposed sub-station.

Colne Valley Forum

58 The main themes to emerge, from a Hillingdon perspective, are identified by HS2 Ltd as:

- The ability of HOAC to continue to provide the outdoor community activities during construction of the viaduct and when the service is operational;
- The option for tunnelling under the lakes;
- The approach to the noise survey assessment;
- The additional impact of the Feeder Station.

59 Following concerns raised by residents, the Council Leader and key officers attended one meeting of the South Ruislip and Ickenham Forum. The provision of an independent chair was accepted as good practice, however, the HS2 Ltd staff appeared unable and/or unwilling to answer key concerns raised by residents. Concerns raised were not responded to in any meaningful way. The general impression was of a PR exercise on behalf of HS2 Ltd as opposed to proper community engagement.

60 Following this the Council sent out a questionnaire to Forum attendees to gauge their thoughts as to the effectiveness of the Community Forums. Following the submission of twelve separate responses, the overall community response can be summarised below:

Set up of the Forums

61 The Forums are a good idea but have not been carried out in reality. The meetings were not long enough to discuss issues in depth and the chosen community representation was deemed haphazard with no regard as to whether the different community groups were properly represented. The agendas were dictated by HS2 and no information was provided in advance of meetings, despite repeated requests, which would have made the meetings more productive.

Forum Meetings

62 The choice of an independent chair was appreciated. Unfortunately too long was spent in each meeting on recorded notes of the previous meeting and not enough time for the actual agenda items. No proper minutes were taken and the meeting notes produced

by HS2 Ltd lost the essence and tone of the meetings. The information, maps and presentations were generally of poor quality and it appeared obvious the HS2 Ltd staff had not made themselves aware of the local area. The actual engagement process was felt to be very poor with promises of answers to follow which were rarely acted upon. On a number of occasions complaints were raised in relation to the unprofessional behaviour of certain HS2 Ltd staff and formal complaints were made.

Community Forum Objectives

63 Overall the Forum members felt they had not gained anything from the meetings in terms of a better understanding of the local impacts. A lot of the responses referred to the meetings being “a tickbox exercise” and that HS2 Ltd were paying “lip service” to residents concerns but not acting on them. There was agreement that without the Forums there was no other way for communities to air their concerns but there was a lack of genuine engagement or two way dialogue.

The council’s engagement with HS2 Ltd

64 Direct engagement with HS2 Ltd at events such as HS2 Ltd Planning Forums and Technical Forums has not been possible due to lack of willingness on the part of HS2 Ltd to adequately fund officer time. There have been numerous attempts to resolve this on behalf of the council but this issue has not been satisfactorily resolved.

65 The council has, and will continue, to respond to all relevant consultations to attempt to secure the best outcome for our residents if this scheme does end up going ahead.

The council’s engagement with residents

66 There has been continued support to our residents to try and help explain and understand the vast quantities of technical documents published by HS2 Ltd throughout this process. The council has used Hillingdon People to help interpret complex consultations and continues to update residents of progress through this and the dedicated pages on the council’s website.

67 Following the publication of the DNS in January 2012 and the Property Compensation and the Safeguarding consultations in October 2012, a full residents meeting was held in February 2013. This was attended by the Leader of the Council and the Cabinet Member for Planning, Transportation and Recycling, and it provided an opportunity for residents to raise their concerns directly with the council.

68 The council’s officer team continually raises residents concerns directly with HS2 Ltd to lend added weight. The recent fiasco surrounding the failure of HS2 Ltd to provide the correct documentation for the draft Environmental Statement consultation to the correct library locations, and at the start of the consultation process, is an example where complaints from the council concerning unfairness of the consultation process because HS2 Ltd failed to provide the correct information in a timely manner have added weight to the concerns raised by the residents groups.

69 Council officers attend Stop HS2 community events to help residents understand the complexity of the HS2 Ltd consultations. As an example, the council has developed and provided maps of the construction routes, as described in the draft Environmental Statement material, which has helped provide a visual representation of the impact of the

construction phases. This material has helped residents understand the likely impacts and thus inform their individual consultation responses.

Update on the legal challenge

70 Given that many objections to the HS2 strategy, preferred route and alternatives put forward by the Council, and by 51m, in response to the Government's consultation exercise were not satisfactorily addressed, 51m commenced a judicial review action in the High Court.

71 The grounds of challenge included the failure of the Government to consult properly, its failure to carry out adequate environmental assessments, the irrationality of the Government's decision making and a breach of the Government's public sector equality duty.

72 Other judicial review actions were also brought by HS2AA, Heathrow Hub and Aylesbury Golf Club and all the legal challenges were "rolled-up" and heard together in the High Court over a period of ten days in December 2012.

73 Mr Justice Ouseley, who heard the case, delivered his judgment in March 2013. He found in favour of HS2AA's challenge that the compensation consultation was fundamentally flawed but dismissed all the other grounds of challenge.

74 The Judge gave HS2AA and 51m permission to appeal to the Court of Appeal on the Strategic Environmental Assessment ground and he also gave 51m permission to appeal on the ground that the Government had failed to re-consult on the Optimised Alternative which 51M had put forward.

75 51m made an application to the Court of Appeal for leave to appeal on four other grounds which are a) the decision to promote HS2 by way of a Hybrid Bill breaches the Environmental Impact Assessment Directive, b) the consultation process was unlawful, c) the irrationality of the Government's decision making and d) a breach of the Government's public sector equality duty. Heathrow Hub also applied to the Court of Appeal for permission to appeal on the basis that the Government's consultation process was unlawful.

76 The Court of Appeal, which consisted of three very senior judges including the Master of the Rolls, heard 51m's, HS2AA's and Heathrow Hub's cases in June 2013. The Master of the Rolls indicated that the Court is likely to deliver its judgment by the end of July given the high profile nature of this case.

77 No indication was given by the Judges as to what their decision is likely to be. However, they did express their astonishment that the Government's QC changed his case by saying that the environmental assessment process would be re-examined by the Government and that it would amend Parliamentary procedures to ensure that there is full compliance with European law. This issue was not raised at all during the High Court hearing and it took everyone by surprise.

78 The general thrust of the Government's defence to 51m's appeal is that the HS2 scheme is still at a very early stage and if there are any deficiencies in the process, the Government still has plenty of time to correct them. Therefore, any legal challenge should be brought when the scheme is completed and it is premature to do so at this stage. 51m's QC strongly argued that this is not realistic. The deficiencies are significant and blight and

other hardship to many people is being caused now. Furthermore, it would be very difficult to bring a legal challenge at the end of the scheme when billions of pounds would have been spent.

79 The Court of Appeal's powers are not limited to simply upholding or dismissing the appeal. One of the grounds of appeal is that the Government failed to carry out a Strategic Environmental Assessment. With regard to this particular ground, the Court of Appeal has the power to refer it to the European Court of Justice for determination if it takes the view that it is unable to decide the issue itself".

80 In the event that the Hybrid Bill process goes ahead, the council has retained a Parliamentary Agent to act on its behalf to ensure that the best outcome for its residents.

Financial Implications

The Council has currently pledged to fund costs up to £200,000 for the legal and other expenses of the 51M Group plus up to a further £100,000 for the cost of the appeal if required.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

The proposed HS2 Rail Line is likely to be the most significant development proposal in Hillingdon since the 3rd Runway. The HS2 route runs straight through the borough. Despite the addition of a tunnel for part of the route there remains significant concerns about the effects of HS2 on residents, service users and communities.

Consultation Carried Out or Required

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance notes the recommendations in the report and makes the following comments. There is currently specific provision within the Risk and Development contingency for the General Fund to cover up to £200k of costs to challenge the Government's proposals for the High Speed Rail. There is also sufficient unallocated provision within the General Fund Contingency to cover the additional costs of appeal if required.

Legal

The legal implications are contained in the body of the report.

Corporate Property and Construction

Corporate Property and Construction supports the recommendations made in this report

BACKGROUND PAPERS

NIL