



# Northumberland

## County Council

COUNCIL

24 FEBRUARY 2021

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Northumberland Line project: Transport and Works Act Order application

Report of: Juliemma McLoughlin, Executive Director: Regeneration, Commercial & Economy

Report of Cabinet Member: Cllr Richard Wearmouth, Portfolio Holder for Economic Development

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### **Purpose of report**

To seek approval under the provisions of section 239 of the Local Government Act 1972 (which applies in this case by virtue of section 20 of the Transport and Works Act 1992) for the Council to submit an application for The Northumberland Line Order (the Order) to the Secretary of State for Transport under the Transport and Works Act 1992 (the Application) (the current ambition is to submit in or around April 2021) and to approve delegations to the Head of Paid Service to finalise the details of the Application and progress certain matters.

### **Recommendations**

**The Council is recommended to:**

- 1. Approve the submission of the Application by the Council to the Secretary of State for Transport for the purposes of section 239 of the Local Government Act 1972.**
- 2. Approve the delegation of powers to the Head of Paid Service to:**
  - a. finalise the various documents required for the Application.**
  - b. progress negotiations with any affected parties or objectors to the Application with the aim of avoiding, or securing the withdrawal of, any objections to the Application.**
  - c. comply and deal with any public local inquiry processes and procedures arising or resulting from the submission of the Application.**
  - d. progress negotiations with any landowners and leaseholders and make necessary arrangements to acquire the land within the proposed Order, conditional on the basis the Order will be made.**

- 3. Approve the delegation of powers to the Head of Paid Service to negotiate, agree, enter into, execute, and serve (where appropriate) all relevant legal agreements, notices, and other documentation necessary to facilitate and underpin the Application and Order.**

### **Link to Corporate Plan**

This report is relevant to the “connecting” and “thriving” priorities included in the NCC Corporate Plan 2018-2021

### **Key issues**

The Northumberland Line project will require a number of consents to authorise its various components. The Council will be responsible for obtaining these consents.

An Order under the Transport and Works Act 1992 will be sought from the Secretary of State for Transport (further to the Application) to confer certain powers on the Council.

Applications for Orders under the Transport and Works Act 1992 are, as a result of section 20 of that Act, subject to section 239 of the Local Government Act 1972. This requires that before a local authority submits such an application, an approving resolution of that authority is passed.

The Council is required to pass an approving resolution prior to the Application being submitted.

## **BACKGROUND**

1. The Northumberland Line project will bring passenger trains back into service between Ashington and Newcastle (the Project).
2. The reintroduction of passenger services on the line has been an aspiration of the Council for many years and the current political, social, economic and rail industry context means that it can now be successfully delivered. As a result of being awarded development funding from the Department for Transport (DfT), the Council has been working alongside partners, including North Tyneside Council, Network Rail, Transport for the North (TfN), Nexus and Northern Rail, since 2018 to develop the Project.
3. The Project will require a number of consents to authorise its various components. The Council will be responsible for obtaining these consents. In summary:
  - separate planning applications will be submitted to the planning departments of the Council and North Tyneside Council (NTC) (as the local planning authorities) for works associated with each of the stations/car parks and certain structures, such as new footbridges, located away from the stations – the intention is for the first tranche of these applications to be submitted in Q1 2021.
  - Network Rail's permitted development rights under the Town and Country (General Permitted Development) (England) Order 2015 will be relied upon for certain works within (and where possible near to) the existing rail corridor; and
  - an Order under the Transport and Works Act 1992 will be sought from the Secretary of State for Transport (further to the Application) to confer certain powers on the Council including, but not limited to:
    - o the compulsory acquisition of land.
    - o the temporary possession/use of land.
    - o the closure of public level crossings and accommodation (private) crossings.
    - o the stopping up and creation of public rights of way.
    - o the temporary stopping up and diversion of highways.
    - o the extinguishment and suspension of private rights over land.
    - o to undertake certain minor ancillary works.
4. The design of the Project is currently being refined, considering responses to the consultation exercise carried out in 2020 and ongoing technical studies. As such, the precise scope of the powers to be included in the Order (including the extent of land requirements) is not yet finalised but is at an advanced stage. The Application is proposed to be submitted in or around April 2021. The scope of the Order will be finalised prior to the submission of the Application.
5. Engagement with affected landowners is on-going with a view to reaching voluntary agreement wherever possible.

6. Applications for Orders under the Transport and Works Act 1992 are, as a result of section 20 of that Act, subject to section 239 of the Local Government Act 1972. This requires that before a local authority submits such an application, an approving resolution of that authority is passed.
7. As such, the Council is required to pass an approving resolution prior to the Application being submitted. Given the local elections in May 2021 and associated pre-election period, this meeting of the Council is the last opportunity for such a resolution to be considered if the target date for submission in or around April 2021 is to be met.
8. Under section 239 of the Local Government Act 1972, a further confirmatory resolution is required to be passed by the Council following the submission of the Application. There are no set timescales for this, but should the Application be submitted in April 2021, it is expected that such a resolution will be presented for consideration by the Council as soon as possible thereafter (recognising the limitations presented by the pre-election period).
9. There are no statutory timescales applicable to the regime under the Transport and Works Act 1992, but it is likely that a decision on the Application will be made in 2022, following a potential public inquiry (likely later in 2021).
10. Further detail on the process is provided at Appendix A.

## **IMPLICATIONS**

<b>Policy</b>	The Corporate Plan 2018-2021 specifically includes a commitment to open up the Northumberland Line as a new economic corridor by reintroducing passenger services unlocking commercial investment along its length.
<b>Finance and value for money</b>	The current estimate of the cost of completion of the construction of the Project is £166m with a benefit cost ratio of between 2:1 and 4:1 depending on demand scenarios. The Council submitted a Strategic Outline Business Case to the DfT in May 2019. Since then, the DfT has provided a total of £6.5m in Railway Networks Enhancement Pipeline (RNEP) match-funding towards the development of the Project. The Council is working closely with the DfT on funding for the remaining stages of the Project and it is anticipated that DfT will contribute a further £133m of RNEP funding, subject to approvals, with the Council contributing the remainder of the costs.  DfT has recently approved the release of a £34m tranche from the RNEP. This is to be split between NCC (circa. £17.40m) and Network Rail. An element of the NCC allocation (circa. £0.23m) will be passed to Northern Rail to support development of service mobilisation and design development).
<b>Legal</b>	Approval is sought under the provisions of section 239 of the Local Government Act 1972 (which applies in this case by virtue of section

	20 of the Transport and Works Act 1992) for the Council to submit an application for The Northumberland Line Order (the Order) to the Secretary of State for Transport under the Transport and Works Act 1992 (the Application). The Council has secured external legal support to assist with this element of the project.
<b>Procurement</b>	N/A
<b>Human Resources</b>	N/A
<b>Property</b>	N/A
<b>Equalities</b>	<p>(Impact Assessment attached)</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/></p> <p>The provisions which authorise the closure of level crossings and their replacement with footbridges will be considered as part of the design work prior to the submission of the application.</p>
<b>Risk Assessment</b>	<p>Fundamentally, the powers sought by the Council in the Order are essential to the successful delivery of the Project, which has broad levels of support amongst public and local stakeholders. As such, the Application is the crucial first step in obtaining these powers.</p> <p>It should be noted that the Application will present an opportunity for objectors to submit representations/objections to the Project. These are most likely to come from a limited set of objectors that fall into the following categories:</p> <ul style="list-style-type: none"> <li>• affected landowners.</li> <li>• persons that object to the proposals to close level crossings and/or divert public rights of way; and</li> <li>• persons affected by or objecting to adverse impacts caused by the Project as a whole (e.g., noise, loss of green spaces etc).</li> </ul> <p>These objections will likely be considered at a public inquiry before an Inspector. The Council will be required to justify the powers it is seeking in the Order, by reference to suitable evidence. The decision on the Application is taken by the Secretary of State for Transport. There is a risk that the Application may be refused in whole or certain elements omitted. In addition, a decision on an Order could be subject to legal challenge by third parties.</p> <p>The project team and officers have identified key risks to the Application being determined favourably and these are being managed, mitigated through preparation of robust supporting documentation with input from legal, planning, and technical consultants. For completeness, the statutory blight provisions contained in the Town and Country Planning Act 1990 will be triggered upon submission of the Application. The extent of the land requirements to be included in the Application have been carefully considered in this context.</p>
<b>Crime &amp; Disorder</b>	N/A

<b>Customer Consideration</b>	N/A
<b>Carbon reduction</b>	N/A
<b>Health and Wellbeing</b>	N/A
<b>Wards</b>	Bedlington East, Newsham, Hirst, Newbiggin Central and East, Ashington Central, Haydon, Sleekburn, Stakeford, South Blyth, Hartley, Seghill with Seaton Delaval.

**Report sign off.**

***Authors must ensure that officers and members have agreed the content of the report:***

	Full Name of Officer
Monitoring Officer/Legal	Helen Lancaster
Executive Director of Finance & S151 Officer	Chris Hand
Relevant Executive Director	Juliemma McLoughlin
Chief Executive	Daljit Lally
Portfolio Holder(s)	Richard Wearmouth

**Author and Contact Details**

Stuart McNaughton

Strategic Transport Manager

[stuart.mcnaughton@northumberland.gov.uk](mailto:stuart.mcnaughton@northumberland.gov.uk)

07827 873139

## **Appendix A: Further explanation as to the Transport and Works Act Order application**

The Northumberland Line project will bring passenger trains back into service between Ashington and Newcastle (the Project).

The railway between Ashington and Newcastle used to run both passenger and freight services until the Beeching cuts in the 1960s. Since then, freight trains have continued to use the line, primarily serving Lynemouth Power Station.

Evidence analysed as part of the development of the Project highlighted that the key problems currently facing the South East Northumberland area are ones of poor transport connectivity, with limited alternative modes of transport to the private car. This not only restricts the potential for residents of South East Northumberland to access employment, education, and leisure opportunities in the wider North East region, it also reduces the attractiveness of South East Northumberland as an area in which to invest.

As a result, the south east area of Northumberland has struggled to overcome social deprivation, which has been evident in the area since the closure of the mining industries in the late 1980's and early 1990's. The key problems are summarised below:

- **Car Ownership:** Car ownership in Northumberland is forecast to increase, particularly in South East Northumberland. This has a number of potential implications including increasing highway congestion, impacting on journey times and the commercial viability of bus-based public transport across the South East Northumberland region.
- **Mode Share:** Private motor car usage in Northumberland is higher than the national average and this contributes to congestion and air quality. Public transport usage in Northumberland is lower than the national average. Congestion on the strategic road network has already led to objections from Highways England to proposed developments in South East Northumberland that would increase pressure on the strategic road network.
- **Commuter Trips:** There is a significant outflow of commuters from Northumberland into Tyne and Wear. Congestion is already an issue on the strategic road network into Tyne and Wear and alternative modes of transport need to be provided to ensure the population of South East Northumberland can access key areas of employment by sustainable modes.
- **Links of Economic Importance:** Links into Tyne and Wear, particularly Newcastle, are vital for the economic prosperity of Northumberland. However, the bus journey times are uncompetitive compared to car journeys.
- **Accessibility:** Public transport options do not meet the needs of all residents of Northumberland. A lack of available services, long journey times and high public transport costs mean that public transport is not a viable option for many people.
- **Environmental Issues:** Air quality is a major concern for two of the authorities forming the North of Tyne Combined Mayoral Authority. Collectively, there is a need to reduce harmful vehicle emissions. The mitigation measures put in place to address air quality may impact on the current travel demands and mode choice to and from Northumberland.

In this context, the reintroduction of passenger services on the line has been an aspiration of the Council for many years and the current political, social, economic and rail industry context means that it can now be successfully delivered. As a result of being awarded development funding from the Department for Transport (DfT), the Council has been working alongside partners, including North Tyneside Council, Network Rail, Transport for the North (TfN), Nexus and Northern Rail, since 2018 to develop the Project.

## **The Project**

The Project aims to stimulate and support economic growth, regeneration and community development in Northumberland and the surrounding regions by providing new and improved transport links for local people and businesses. By doing so, the Project will:

- improve access from towns such as Ashington and Blyth to employment hubs like Newcastle, as well as opening new opportunities for education and travel.
- provide a real incentive for potential employers to relocate to and invest in the area.
- provide vital infrastructure to help deliver the region's aspirations for population and economic growth.
- help to attract visitors and improve local tourism.
- enhance public transport connectivity within and beyond the region.
- help to reduce congestion and improve air quality on key corridors by moving people away from car travel and onto public transport; and
- support the delivery of significant growth in sectors such as renewable energy, offshore oil and gas and engineering.

The Project will provide six new stations at Ashington, Blyth Bebside, Bedlington, Newsham, Seaton Delaval and Northumberland Park, with car parking provided at five of these stations (Northumberland Park will benefit from existing facilities connected with the current Nexus station).

In addition, works will be required to upgrade a number of existing level crossings along the route, to reflect safety requirements arising from increased rail traffic. In addition, at Newsham the existing alignment of the A1061 (South Newsham Road) is proposed to be diverted across a new road bridge across the railway.

Some other level crossings will need to be closed, but alternative provision will be made to cross the railway line (for example, by providing new footbridges). The Project will also necessitate the need to temporarily divert public rights of way during construction and, in some cases, permanently divert public rights of way to accommodate the new stations.

The Project will also require a range of other upgrades and changes to be made to the existing railway line. These include:

- track upgrades and realignment to enable higher speeds, shorter journey times and a smoother ride.
- power and signalling upgrades, including a new power supply building near Bedlington North level crossing.

- laying of new track, including additional track to allow trains to reverse at Ashington without being in the way of freight trains and a track loop at Seghill to enable trains to pass each other; and
- improvements and repairs to bridges and culverts along the track.

At present, it is planned that Network Rail will undertake works to the existing railway corridor (including level crossings) and bridges/other structures, with the Council taking responsibility for other works, including the new stations and highway works.

The line is currently anticipated to open to passengers in late 2023, with Northern Trains Ltd expected to take on the services as part of its franchise.

Upon opening, journeys between Newcastle and Ashington are anticipated to take around 35 minutes with no need to change trains. The station at Northumberland Park will be adjacent to the existing Tyne and Wear Metro station, bringing further opportunities for interchange and travel to other destinations.

The freight trains that currently use the railway will still be able to do so, helping support the economic aspirations of both Lynemouth Power Station and the Port of Blyth.

The Project has been selected to adopt a Project SPEED (Swift, Pragmatic and Efficient Enhancement Delivery) approach and is the only third party sponsored major rail project out of six phase one schemes selected in the UK. Project SPEED is a UK Government initiative across all construction sectors looking to build on the model of the 'Nightingale Hospitals' which were built in record time in response to the Coronavirus crisis. The challenge that has been set is to take a radical view of processes, governance, consents, decision-making and procurement approach to try and deliver projects significantly faster and at far less cost.

## **Consultation**

The Council undertook an initial consultation exercise on the Project in September and October 2019. That consultation focused on raising awareness of the Project and finding out more about what local people wanted from the service. The responses to that consultation indicated that 96% of respondents supported the principle of the Project.

The Council undertook a further round of public consultation on the Project in November/December 2020. This consultation shared details of proposals across the length of the Project, with focussed sections on each station site. It sought to collect detailed feedback on the proposals for the stations, Chase Meadows footbridge, level crossings and temporary work sites. Over 1,000 responses were received from the public and other stakeholders. Of those responses, 92% were slightly, mostly, or fully supportive of the Project, with only 5% not supportive.

All comments received through the public consultation process have been reviewed and analysed, and a summary of key themes and the project's responses to them will be included in Statements of Community Engagement submitted with each of the station planning applications (see below). A summary of key themes raised at each geographic location will also be produced, identifying how key issues have been or will be addressed.

## The Consenting Strategy

The Project will require a number of consents to authorise its various components. The Council will be responsible for obtaining these consents.

In summary:

- separate planning applications will be submitted to the planning departments of the Council and North Tyneside Council (NTC) (as the local planning authorities) for works associated with each of the stations/car parks and certain structures, such as new footbridges, located away from the stations – the intention is for the first tranche of these applications to be submitted in Q1 2021.
- Network Rail's permitted development rights under the Town and Country (General Permitted Development) (England) Order 2015 will be relied upon for certain works within (and where possible near to) the existing rail corridor; and
- an Order under the Transport and Works Act 1992 will be sought from the Secretary of State for Transport (further to the Application) to confer certain powers on the Council including, but not limited to:
  - o *the compulsory acquisition of land*: The Order would confer powers on the Council to compulsorily acquire interests in and rights over specific plots of land along the route of the Project. This power could be used where the Council has not been able to secure the necessary land or rights by agreement.
  - o *the temporary possession/use of land*: The Order would confer powers on the Council to occupy and use specific plots of land on a temporary basis along the route. This power would be used in relation to land that is required on a temporary basis to facilitate construction and would be handed back to landowners upon the completion of the relevant works.
  - o *the closure of public level crossings and accommodation (private) crossings.*
  - o *the stopping up and creation of public rights of way.*
  - o *the temporary stopping up and diversion of highways.*
  - o *the extinguishment and suspension of private rights over land.*
  - o *to undertake certain minor ancillary works*, that would otherwise require a number of separate planning applications to be submitted, including:
    - providing means of access from the highway network.
    - works to lay out footpaths, cycle ways and bridleways.
    - providing parking bays for Network Rail maintenance vehicles at certain level crossings; and
    - undertaking temporary works, such as providing temporary worksites/construction compounds.

The design of the Project is currently being refined, taking into account responses to the consultation exercise carried out in 2020 and ongoing technical studies. As such, the precise scope of the powers to be included in the Order (including the extent of land requirements) is not yet finalised but is at an advanced stage. The Application is proposed to be submitted in or around April 2021. The scope of the Order will be finalised prior to the submission of the Application.

Engagement with affected landowners is on-going with a view to reaching voluntary agreement wherever possible.

## The Application and approval from the Council

Applications for Orders under the Transport and Works Act 1992 are, as a result of section 20 of that Act, subject to section 239 of the Local Government Act 1972. This requires that before a local authority submits such an application, an approving resolution of that authority is passed.

As such, the Council is required to pass an approving resolution prior to the Application being submitted. Given the local elections in May 2021 and associated pre-election period, this meeting of the Council is the last opportunity for such a resolution to be considered if the target date for submission in or around April 2021 is to be met.

## Impacts

The Council has obtained Environmental Impact Assessment screening opinions from both the Council's and North Tyneside Council's planning departments, which both conclude that the Project is not likely to have any significant effects on the environment. As such, a formal Environmental Impact Assessment is not required to be carried out in connection with the Project.

The Project will give rise to a range of impacts during its construction and operation. Whilst these impacts are not directly attributable to the matters authorised by the Order, they are a consequence of the Project which the Order helps to deliver. The principal impacts are summarised below:

- *Traffic and transport:* There may be a short-term impact on the quality of the walking environment of pedestrians during construction. However, this would only be of a temporary and localised nature and it is considered the Project will improve the walking environment on completion
- In addition, there is the potential for construction activities to cause temporary disruption to traffic on the highway whilst the works are carried out. Discussions with the highway authorities will take place to ensure any impacts are mitigated.
- *Noise and vibration:* Construction activities have the potential to generate noise impacts, but these will only occur on a temporary basis. Mitigation measures will be adopted during the construction to manage the effects. As a result of the Project, there will be an increase in the number of trains using the railway line. Measures will be put in place to manage any noise impacts arising from the operation of the new stations.
- *Air Quality:* Construction activities and the associated vehicle movements have the potential to generate dust and emissions to air. Mitigation measures, including dust suppressant measures, will be adopted during construction to manage these emissions.
- *Biodiversity:* Construction activities have the potential to disturb species and habitats, and the Project requires the removal of trees and vegetation in some locations. However, ultimately where trees and habitats are unavoidably lost as a result of the Project, they will be replaced at other suitable locations locally. Other impacts will be managed through suitable mitigation measures.
- *Landscape and visual amenity:* During construction there will be short term temporary effects across the entire Project and for localised areas of landscape. However, it is anticipated that these effects could be suitably managed through planning conditions.

- *Archaeology and heritage*: The construction activities have the potential to impact heritage assets, but only on a temporary basis. Measures will be put in place to manage these impacts.

The impacts of the Project will be considered as part of the applications for the Order and the associated planning permissions, and suitable conditions will be imposed where necessary to secure any necessary mitigation. Drafts of these conditions will be prepared in consultation with both the Council's and North Tyneside Council's planning departments.

### **Next steps**

Under section 239 of the Local Government Act 1972, a further confirmatory resolution is required to be passed by the Council following the submission of the Application. There are no set timescales for this, but should the Application be submitted in April 2021, it is expected that such a resolution will be presented for consideration by the Council as soon as possible thereafter (recognising the limitations presented by the pre-election period). There are no statutory timescales applicable to the regime under the Transport and Works Act 1992, but it is likely that a decision on the Application will be made in 2022, following a potential public inquiry (likely later in 2021).