

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive
Date:	20 June 2016
Subject:	Improvement works to the highway between A55 J3 and Wylfa Newydd along the A5 and A5025
Portfolio Holder(s):	Councillor John Arwel Roberts
Head of Service:	Dewi Williams
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Local Members:	n/a

A –Recommendation/s and reason/s
<p>RECOMMENDATION:</p> <p>That the Executive authorise the Head of Service – Highways, Waste and Property to:</p> <p>(a) enter into an Agreement with Horizon Nuclear Power/Hitachi (HNP) under section 278 of the Highways Act 1980 and any other powers necessary in such form as the the Head of Service – Highways, Waste and Property requires to ensure HNP indemnifies the Council for all costs and liabilities associated with progressing and promoting Compulsory Purchase Orders(s), Side Road Orders and any other Orders (“the Orders”) necessary to carry out construction and improvement works to the highway between A55 J3 and Wylfa Newydd along the A5 and A5025 including associated works and mitigation and in undertaking all work in connection with the Orders, meeting the costs of acquisition of rights and interests in land in order to deliver the works and meeting all compensation liabilities of the Council which will or may arise out the Orders and acquisition of rights and interests;</p> <p>(b) following completion of the Agreement in (a) above, undertake all steps necessary in preparation for making and serving the Orders. Such steps to include undertaking land searches and referencing of all interests and rights which may be required to deliver the construction and improvement works (including issuing requisitions for information under the Acquisition of Land Act 1981 and/or under the Highways Act 1980), preparing draft Orders and related documentation and undertaking all steps required to allow such Orders to be made and served should such action subsequently be authorised by the Executive;</p> <p>(c) following completion of the Agreement in (a) above, enter into negotiations with those persons with an interest in land or rights needed to deliver the construction and</p>

improvement works in order to acquire, where possible, such land and rights by agreement, to include making offers to acquire such land and rights and entering into agreements to acquire such land and rights as the Head of Service – Highway, Waste and Property considers appropriate.

REASONS

Introduction

Horizon Nuclear Power/Hitachi (HNP) is proposing to submit an application for development consent for a new nuclear power station at Wylfa, Anglesey (Wylfa Newydd). In order to deliver Wylfa Newydd, improvements are required to be made to the highway between A55 J3 and Wylfa Newydd along the A5 and A5025 site entrance. Discussions have taken place between the Council (as local highway authority) and HNP over the past two years in relation to the delivery of such improvements. Consequently, the Council and HNP entered into a Collaboration Agreement (dated 1 June 2015) in order to facilitate these and other highway improvements for the effective operation of the highway network during the construction and operation of Wylfa Newydd. Completion of the Collaboration Agreement was authorised by the Executive on 16 March 2015.

The Collaboration Agreement envisages that compulsory acquisition may be needed to assemble the land required for such works. In this regard it states: *“In its capacity as highway authority IACC supports in principle the use of compulsory purchase powers to secure the delivery of the Projects, provided that HNP meets the costs of prosecuting any compulsory purchase order and acquiring the land (including meeting any compensation liabilities). However, any specific use of compulsory purchase powers would need to be considered in detail by IACC, and the public interest in pursuing any such compulsory purchase order determined on the specific facts at the relevant time.”*

The Council, as local highway authority, has powers under the Highways Act 1980 to construct new highways and to improve existing highways. It also has powers to acquire land for these purposes as well as providing mitigation etc (including sections 239, 240, 246, 250 and 260 of the Highways Act 1980). The Council, as local highway authority, also has the power under section 278 of the Highways Act 1980 to enter into an agreement with a person under which that person will fund construction and improvement works provided that the local highway authority consider such works will be of benefit to the public. The power extends to monies being paid to the local highway authority for land acquisition.

The intention is that the Council and HNP will, pursuant to the Collaboration Agreement, enter into agreements under section 278 of the Highways Act 1980 under which the Council will agree to undertake works of construction and improvement to highways requiring improvement provided HNP fund those works. An agreement is also required to ensure HNP (i) fund acquisition by the Council of the land and rights needed to complete the works; and (ii) if compulsory acquisition is

necessary, fund the cost of all work required in connection with making and prosecuting Orders and payments of compensation (effectively an indemnity agreement).

The indemnity agreement is being advanced and it is anticipated that it will be in place shortly.

The works required

The A5025 is a rural A-classification single carriageway road with variable speed limits that runs between the A5 at Valley along the west of Anglesey towards Cemaes and then along the north coast through Amlwch and Benllech to Llanfairpwll. The route forms part of the wider road network that distributes local traffic from the strategic A55 North Wales Expressway connecting the island to mainland Wales (following the north coast) towards Chester.

Reports have identified the need for works to the highway between A55 J3 and Wylfa Newydd along the A5 and A5025 in relation to the delivery of a new nuclear power station at Wylfa. The section of carriageway identified for improvement is approximately 18km long and commences at the A5 trunk road at J3 Valley, south west of the existing Magnox power station, runs down towards Valley traffic lights and then connects to the A5025 and runs northwards, broadly parallel to the west coast of Anglesey towards the settlement of Cemaes. Between Valley and Cemaes, the section of route requiring improvement passes through or adjacent to the communities of Llanfachraeth, Llanfaethlu, Llanrhyddlad and Tregele.

The works required fall into two categories:

(a) Improvements to the existing A5 from A55 J3 and the Valley traffic lights and the A5025 from Valley (Valley crossroads traffic lights) to Wylfa (Wylfa Newydd site entrance). These are largely improvements to the existing carriageway and are referred to in this Report as the Online works;

(b) Sections of new highway along the route from Valley. These essentially comprise four sections of bypass and which are referred to in this Report as the Offline works.

Online works

The Online works will comprise localised road widening, widening at bends to allow safe passage for heavy goods vehicles and to bypass one particularly severe bend at Bytheicws, full reconstruction of pavement and the re-surfacing of existing pavement on the existing carriageway where the road will be bypassed. It will also include improvements to certain private means of access to ensure visibility is safeguarded.

Offline works

These comprise four new sections of highway to tie into the existing A5 and A5025:

Valley: the proposed works at Valley comprise the construction of a new roundabout to form the primary junction between the A5 and the A5025. The existing A5025 will be stopped up from the existing signalised junction, though cycle and foot access will continue. Access to existing properties will be retained.

Llanfachraeth: the preferred option to take through traffic out of the village is a 2.2km section of new carriageway which, once constructed, would form part of a realigned A5025 with the existing road through the village being reclassified. Gradients along this section will be smoothed out as the new road will be routed along embankments and through cuttings as necessary in order to achieve a smooth vertical alignment and overtaking opportunities will be maximised.

Llanfaethlu: the two bends in Llanfaethlu, one near the Black Lion pub and one near the village, will be removed as the road will be straightened. It is proposed that the village of Llanfaethlu will be bypassed with a new section of road being routed to the east of the main body of the village. The existing A5025 heading north from the village will be stopped up to vehicular traffic, which means that the new primary school (Ysgol y Llannau) will be located at the end of a cul de sac once the bypass is constructed. The new road will be routed along embankments and through cuttings as necessary in order to achieve a smooth vertical alignment.

Llanrhyddlad and Cefn Coch: 1.3 km of proposed new road will remove the main bends at this section with a bypass section that is routed to the east of the existing road. Gradients along this section will be smoothed out as the new road will be routed along embankments and through cuttings as necessary.

Officers understand that HNP is also considering whether any works are necessary (having regard to factors such as the location of associated development such as worker accommodation) to improve the existing A5025 from Wylfa Newydd to Amlwch. It is understood that preliminary investigations of the Wylfa to Amlwch stretch of the A5025 are being undertaken as well as consultation in relation to potential works along this stretch of road. The investigations and consultation will help inform whether improvements are required. This work is ongoing and does not form part of this report. Should such works be considered necessary, it is anticipated they will be taken forward in the same way as the Valley to Wylfa Newydd works.

Timing of and approach to the works

It is currently intended that the Online works are completed as soon as possible. Early delivery of these works are required to reduce the impact on the highway network (ie to avoid online construction taking place at the same time as offline construction). In this regard, it is anticipated that the Online works will be carried out (subject to planning consent and the requirement for Orders to be confirmed) in

2017. The Offline element of the works are currently envisaged to start following grant of a DCO for the proposed power station (in 2019).

It is anticipated that a planning application for the Online works will be made this Autumn (in tandem with the planning application for Wylfa site preparation and clearance) with the Offline works forming part of a separate subsequent application. This will allow the Online works to be advanced. This will also allow Orders in relation to the Online works to be progressed if necessary. The precise approach and scope of the applications will need to be agreed with the Council as Local Planning Authority.

At this stage, the authority that is being requested from the Executive is to allow information/evidence gathering to take place and for the Council to engage with landowners and others with an interest to seek to acquire land and rights by agreement in relation to the proposed highway works. The authority also extends to undertaking preparatory work in relation to the Orders. What is not sought at this stage is authority to make and serve any Order. Before this is done a further report will be taken to the Executive updating the position and seeking separate authority to make the Orders. At that point it is envisaged that a planning application will have been made for any works which will be the subject of Orders.

Land needed to carry out the works

The approximate extent of the land required to undertake the works is shown on the attached plan (see section F (below)). It is intended that this land and adjacent areas will be subject to land referencing and negotiations will be entered into with owners and occupiers as required.

In this regard it should be noted that HNP has already been in discussions with landowners in order to secure land and other interests required for the works. A number of Agreements have been entered into with HNP to allow them to draw down land required for the works. However, there are still significant parcels of land where no Agreement exists and where compulsory acquisition might be needed.

Further, the Council may yet determine that additional land is required following finalisation of HNP's planning applications for the works.

Objectives of and need for the works

The A5025 is an old road, which has been upgraded in sections over the past years. This is demonstrated by sections of "old" A5025 which now form laybys or have been grassed over. Transport and traffic surveys were undertaken by the Local Highway Authority and Horizon between the periods of 2010 to 2015. These captured existing vehicle numbers and speeds along the A5025, the condition of the road surface, the width of the road and the geometry of the road.

The surveys indicated that sections of the A5025 route from Valley to the Wylfa Newydd site entrance, as is typical of roads in the area and of the age of the A5025, currently have width restrictions, bends that do not meet current highways design standards, and other constraints on use of the road for construction traffic associated with Wylfa Newydd. Furthermore, the route passes through rural communities where it is closely flanked on one or both sides by residential properties and other structures.

It is therefore considered that the current A5025 is not appropriate for use as a route for construction traffic associated with Wylfa Newydd. Accordingly, the Online and Offline works are required to make the route suitable and to allow the construction of Wylfa Newydd to take place.

The Online works involve the acquisition of land adjacent to the existing highway. This land is required in order to address the issues that have been highlighted in Council and HNP reports, including the Council's Transport Position Statement which identifies the potential transport implications of the Wylfa Newydd project. Specifically, land acquisition would enable sections of highway to be widened to appropriate widths (as agreed with the Council as local highway authority) that takes into consideration both the Design Manual for Roads and Bridges and also Design Guidance for Roads in upland areas.

The Offline works will improve road alignments in a manner which enables the road to take the traffic required in construction of the Wylfa Newydd (including the additional loading of heavy goods vehicles (HGVs)) out of the villages. This will mitigate the risks associated with increased traffic, particularly HGVs associated with a large development, contribute to improved road safety and reduce the impacts of noise and air quality for properties that are currently located on the existing carriageway. This will provide a significant and enduring benefit for the communities at Llanfachraeth and Llanfaethlu. The improvements to the road alignment at Valley and Cefn Coch, as well as the bypass at Llanfachraeth, will also provide enduring infrastructure benefits for all road users by reducing sections of 30 mph limits, providing safe overtaking opportunities and making the journey a more comfortable drive.

It is therefore considered that the works are needed in order to enable Wylfa Newydd to be constructed. Wylfa Newydd is supported in national and local policy.

Policy support Wylfa Newydd and the proposed highway works

The need for new nuclear electricity generation in the UK has been established by the UK Government in National Policy Statements ("NPSs"), in particular the NPS for Energy (EN-1) and the NPS for New Nuclear Generation (EN-6). EN-6 identifies Wylfa (and seven other sites) as potentially suitable for deployment of a new nuclear

power station by the end of 2025.

EN-1 discusses the challenges facing the UK energy sector in relation to energy security and carbon reduction objectives. A key issue identified is the anticipated retirement in coming years of many existing fossil-fired power stations on environmental grounds, and most nuclear plants as they reach the end of their life. Almost one quarter, or 22GW, of the UK's generating capacity is due to close by 2018 and needs to be replaced. This makes the need for investment in new generating capacity urgent.

To address the urgent need for new generating capacity, EN-6 also emphasises that new nuclear power stations need to start generating as soon as possible, with the intention that they should be bought online before 2025.

The national need for Wylfa Newydd has therefore been determined by the Government. This is reflected in regional and local policy documents including the JLTP, the JLDP and the New Nuclear Generation at Wylfa Supplementary Planning Guidance (IACC) (2014) ("the SPG").

Horizon has identified that a preferred route to the Wylfa Newydd Development Area (the indicative area of land that would be used for the construction and operation of the power station) from the strategic road network (the A55) is to depart from the A55 at Caergeiliog on to the A5 and then link to the A5025 at Valley to head north towards Tregele. This is the most appropriate route for freight and other road movements associated with the construction and operation of the Wylfa Newydd power station.

The works to the A5025 are required to ensure that Wylfa Newydd can be developed and delivered as soon as possible to help meet this urgent national need for new generating capacity. A similar approach was taken in relation to the recent Hinkley Point C application in respect of "early works".

There is significant policy support for the delivery of Wylfa Newydd. While the Ynys Môn Local Plan (1996) and the Gwynedd Structure Plan (1993) pre-date the emergence of the project, they do support highways upgrades where necessary to secure economic development. These local development plans also contain a number of policies that are relevant to all planning applications in Anglesey which the scheme will need to be assessed against.

Since the emergence of the Wylfa Newydd project, IACC adopted the SPG specifically to address issues arising from new nuclear development on Anglesey. The SPG contains specific policies relating to the transport requirements of the Wylfa Newydd project. These include a requirement to improve the highway between Valley and Tregele to take into account the increased traffic flows associated with the construction of the project.

In developing the SPG, the Council appointed consultants to prepare a Transport Position Statement regarding the potential transport implications of the Wylfa Newydd project. This document states: "*There is a huge opportunity to create a lasting legacy for the Island in terms of improved transport links on Anglesey from the Wylfa new nuclear power station*".

The Transport Position Statement listed a number of measures that could be developed to maximise the opportunity which included highway improvements to provide: "*physical improvement measures along designated routes [which] will increase ease of movement around the Island for the local population and will support tourism, attract further investment and provide opportunities to open up sites for residential and industrial development*". The A5025 improvements will deliver this opportunity.

The SPG contains direct support for the works:

Objective 1 is to: "*ensure that the Wylfa NNB Project contributes to the delivery of the Anglesey Energy Island Programme, and the Anglesey Enterprise Zone, placing the Island at the forefront of energy research and development, production and servicing*". The SPG notes that this will require the delivery of the "*strategic infrastructure necessary to accommodate the Wylfa NNB Project and support wider economic growth*". The works are a key element of this strategic infrastructure.

Objective 3 is to: "*ensure that the Wylfa NNB Project delivers significant and enduring infrastructure benefits to the Island's communities*". The works will provide an enduring benefit to all users of the A5025 between Valley and Treglele. The Online Works will improve the existing road pavement through full reconstruction along most of its length and resurfacing of the rest. The user experience for all road users will be a significant benefit.

Objective 6 is to: "*ensure that the Wylfa NNB Project promotes the sustainable movement of people and materials and provides resilient transportation infrastructure capable of attracting and sustaining economic growth and creating sustainable communities*". The key aim of the works is to enable appropriate and safe construction and operational access to the Wylfa Newydd Development Area from the A55.

Policy GP14 (Transport) of the SPG makes specific reference to transport issues associated with the Wylfa Newydd project. It states that: "*...The project promoter should make best use of existing infrastructure provision and enhance provision in order to deliver legacy benefit*". The Scheme will improve the existing highway and, where necessary, create sections of offline improvements necessary to enable the construction of the power station.

Policy GP14 also provides timescales within which road improvements must be made available. It states *"the County Council will expect proposals to be in place prior to the commencement of activities that would otherwise lead to negative effects."* It is currently envisaged that the works will be undertaken in two stages: the Online works being undertaken first ahead of the DCO with the Offline works starting after the DCO has been granted. In this regard, HNP will not be able to undertake construction activities that significantly increase traffic flows on the A5025 Valley to Wylfa Newydd section until all the works have been completed. The Council's current understanding is that the initial phases of site preparation and clearance (which is likely to be the subject of a planning application this Autumn) will only result in moderate increases in traffic flows and that such works can be carried out whilst the Online works are being progressed. However, this can only be confirmed once the precise scope of the works are known.

The draft Joint Local Development Plan (JLDP) is progressing and is due to be heard at public hearings this Autumn. The JLDP makes reference to the need to maximise accessibility for all modes of transport and improve existing infrastructure and the strategic transportation network including the requirement to improve access routes to the power station site.

Whilst Wylfa Newydd has a specific requirement for the Online and Offline works and so will act as a catalyst for these works, there is also broader transport, economic and planning policy at a national, regional and local level that recognise the wider public benefit of the works to be undertaken. In particular, an improved A5025 and link to A55 J3 will give the island an opportunity to attract further investment and future projects and improve connectivity for local residents which will have economic and social benefits for Anglesey. However, as the evidence base showing how the proposed works translate into the wider benefits envisaged by policy is not sufficiently developed, the Executive is not invited to give them any material weight in the current decision.

Evolution of the works and the appraisal of options

The Welsh Government's Welsh Transport Planning and Appraisal Guidance June 2008 ("WelTAG") contains guidance on the appraisal of transport proposals that is applied to all transport strategies, plans and schemes being promoted or requiring funding from the Welsh Government. The WelTAG guidance is not directly relevant to the Online or Offline Works, which are being funded privately by HNP, however the WelTAG approach has been applied at an early stage of the process of design of the works.

The DMRB (Design Manual for Roads and Bridges) contains a process that is widely used to design new roads and improvements to roads, taking into consideration safety and the environment. It provides for the preparation of a series of design reports leading up to a final design. This process has been used in relation to the

Offline works, as new proposed elements of highway.

The design approach which has been applied to the proposed improvement works is as follows:

(a) Scheme Assessment Report 1 (SAR 1). The objective of SAR1 is to identify the environmental, engineering, economic and traffic advantages, disadvantages and constraints associated with broadly defined improvement strategies. The aims at SAR1 were to make it safe to travel to Wylfa along the A5025 during construction and operation of Wylfa Newydd giving consideration to an increased number of HGVs and to minimise negative impacts this may have on local people and the environment. Iterative design concepts for the Online and potential Offline Works were prepared over a period of time leading up to the preparation of the SAR1 in 2011 which identified a series of constraints and corridor options for the proposed works.

One key output of SAR1 was the identification of parts of the A5025 where new offline works would be required to meet these aims. Areas identified where new offline works were required were:

Valley (A5/A5025) – At Valley the issues related to the capacity of the existing signalised junction. Initially, HNP considered the provision of a direct link between the A5025 and junction 3 of the A55. However, following discussions with stakeholders, it was concluded that there would be insufficient space on the A55 roundabout to provide the tie-in and therefore a new roundabout would need to be provided.

Llanfachraeth - At Llanfachraeth the issues related to the routeing of additional heavy goods vehicles through a rural village and the potential for this to cause disturbance to residents. In this location, an option of a bypass to the west of Llanfachraeth was also considered. However, a road positioned to the west of the village would pass through a Site of Special Scientific Interest and the Anglesey Area of Outstanding Natural Beauty. On this basis and taking into account views of stakeholders, further consideration of alternatives to the west of Llanfachraeth was discounted, with work on potential alignments focusing on a corridor to the east. Within the eastern corridor, HNP developed three alignment options that would each bypass Llanfachraeth village. The option providing best overtaking opportunities and least disruption has been selected.

Llanfaethlu - At Llanfaethlu the issues related to the sharp bends in the road. HNP discussed an option for a significantly longer bypass to the east of Llanfaethlu with stakeholders but this was not deemed to be a credible route due to the length of road and the potential environmental impacts that may arise from the construction and operation of the road. Alternative solutions with an anticipated lower environmental impact than the eastern option were considered and two options were proposed to straighten the two existing bends along this section of the A5025.

Cefn Coch - At Cefn Coch the issues related more to the vertical alignment of the existing carriageway. The section is particularly undulating including horizontal changes in direction too. This would not be acceptable for the safe and easy passage of the increased number of HGVs. The proposed improvement for this location comprises a bypass of the area and the improvement of a crossroads.

(b) Scheme Assessment Report 2 (SAR2). The purpose of stage 2 is to identify the factors to be taken into account in choosing alternative routes or improvement schemes and to identify the environmental, engineering, economic and traffic advantages, disadvantages and constraints associated with those routes or schemes. Continued engagement with stakeholders following the publication of SAR 1, including HNP's first stage of formal Pre-Application Consultation as outlined below, led to the second iteration (SAR2) of the design process being published in October 2015. SAR 2 considered the options identified within SAR 1 for Offline Works in further detail and considered the traffic, safety and environmental issues around each of the different options.

(c) Scheme Assessment Report 3 (SAR3). The purpose of stage 3 is to identify clearly the advantages and disadvantages, in environmental, engineering, economic and traffic terms, of the preferred route/ works. A particular requirement at this stage is an assessment of the significant environmental effects of the project and mitigation measures. SAR3 has been under preparation since the publication of SAR 2 and will capture the design for the final proposals to be submitted with the planning application(s) for the Online and Offline Works.

(d) The preferred options of those considered in SAR 1 and SAR 2 were selected through an options refinement exercise in March 2015 (an Options Refinement Report). The exercise comprised a workshop that brought together all information received to date and agreed a preferred option for each bypass to take to the public information event, with particular refinement options of the preferred option for the public to comment on. This included the WelTAG approach outcome, comments received at public consultation and other informal meetings with various officers of IACC, Natural Resources Wales and other statutory consultees. The preferred options identified within the Options Refinement Report were thereafter the subject of public consultation as outlined within the following section of this report.

Public Consultation

Pre-Application Consultations (PAC 1) September to December 2014 - Routing options for the proposed A5025 Highway Improvements between Valley and Wylfa Newydd were first identified for consultation purposes during HNP's first statutory Pre-Application Consultation for Wylfa Newydd carried out between the 29 September and 8 December 2014. The options consulted on at PAC 1 reflected those contained within SAR 1 and described above.

The consultation materials provided varying levels of technical information, comprising two non-technical and two technical documents. The non-technical documents were written to ensure they were accessible to the public, with the technical documents geared more towards local authorities and other statutory bodies. The suite of documents were available for review in local libraries, Isle of Anglesey County Council's offices, HNP's office at Wylfa and the Wylfa Information Centre. They were also available to take away from consultation events and downloadable from the HNP website.

Broad support was received following consultation for the need for road improvements, noting that the identified road proposals were a step towards this. There was strong support for bypasses that avoided the centre of settlements and schools in particular Llanfachraeth Bypass Option 1. However, this was tempered by an overarching concern regarding existing road congestion and safety. Various additional improvements to the A5025 were suggested ranging from a full reconstruction of the highway to the need for additional overtaking sections and the straightening of some existing bends through online works.

Following PAC1, selection of the preferred offline options were progressed and various changes to the preferred offline design were made, informed by the feedback received. In particular, the following amendments were made to the highways improvement proposals: (i) The existing carriageway on the Online Improvements sections of the A5025 between the proposed site entrance and Valley will be subject to full reconstruction; (ii) The detailed design of the Online proposals will widen existing bends; (iii) Improvements to the junctions of the NCN Routes and the A5025 will be improved at Llanynghenedl and Tregelge; (iv) Footpath diversions will be included in the design of the highways improvements to minimise the impacts of severance or road realignment; and (v) Preferred options for the bypasses were chosen and further design changes made following public comments.

These design changes were carried through to the preparation SAR2 and the preferred option that is to be reflected in SAR 3.

The preferred options identified through consultation on PAC 1 and captured within the Options Refinement Report were carried forward into additional public information events, with appropriate sub-options developed to address issues that arose which were not adequately addressed by any of the initial options presented at PAC1. During public information events in July 2015, the public were provided an update for online and offline improvements and how the preferred options for the offline works had been arrived at to be taken forward in SAR3. A further public information event was held in January 2016 as part of HNP's Project Update on the wider Wylfa Newydd project. This provided further detail and refinement of the preferred options.

Further consultation on detailed designs for the Online works took place in the week commencing 16 May 2016. Comments received will be taken into account in the final detailed design for the works to be presented in SAR3.

The ongoing detailed design of the works subject to the public consultation events outlined in the previous section has had detailed input from IACC highways team through regular design and progress meetings since October 2014 involving HNP, its advisers and representatives of the Council's highways team.

In addition, a series of meetings and workshops with members, community councils along the route, the police, and other technical services within IACC have been held during the preparation of the design of the scheme, comments received and design changes made accordingly.

Landowner negotiations

The Council understands that HNP has consulted with landowners throughout the evolution of the design of the proposals (as well as part of the access discussions it has had with landowners for the purposes of environmental surveys and geo-technical ground investigation work). The consultation in respect of the Offline sections of highways improvements has been more extensive due to the greater understanding of the proposals and the extent of the third party land that may be required.

In addition to consultation, correspondence and face to face meetings with individual land owners (and their representatives) has continued to take place since January 2014 and HNP and Fisher German (HNP's agents) have presented proposed road improvement alignment plans and talked through the acquisition process and timescales. The Council understands that HNP has explained option proposals and given an indication of the terms that would be put forward. Some discussions with landowners have been more extensive and more frequent than others, depending on specific landowner concerns. Fisher German are logging all contacts with landowners and landowner contacts have been made available to the Council.

HNP has acquired interests in some of the land by agreement (mainly through options to purchase) but it has not acquired all the land and interests needed for the works.

Compulsory Purchase

Although this report is not seeking authorisation to make and serve a compulsory purchase order, it is requesting that authorisation is given to the preparatory steps and to negotiating/assembling the necessary land to allow the works to be undertaken in the context of the local highway authority's powers of compulsory acquisition. It is considered likely that a resolution to make and serve Orders will subsequently be needed from the Executive and the authorisations requested in this report are, therefore, effectively the first step in this process. Appropriate regard should therefore be given to the law and advice on exercising powers of compulsory purchase.

The exercise of powers of compulsory acquisition is supported by Welsh Government where there is a compelling case in the public interest.

National Assembly for Wales Circular 14(2)/2004 states that *“The Welsh Assembly Government believes that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – at whatever level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay.”*

Additionally, the Council needs to demonstrate that (i) there is clear evidence that the public benefit will outweigh the private loss, having regard to the European Convention on Human Rights; (ii) the scheme for which the CPO is sought is unlikely to be blocked by any impediments to implementation; (iii) there is a clear idea of how the land will be used and that necessary resources are likely to be available to achieve that end within a reasonable timeframe ; and (iv) that the land required has or will be sought to be acquired by agreement, with any CPO being relied upon only as a last resort.

Officers have had regard to these tests in seeking the authorisations in this report. Compliance with these tests will be demonstrated as part of any subsequent report to the Executive seeking specific authorisation to make and serve the Orders.

Human Rights

The Human Rights Act 1998 (the “HRA 1998”) incorporated into domestic law the European Convention on Human Rights (“the Convention”). The HRA 1998 makes it unlawful for a public body to act in contravention of the Convention.

The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual. In resolving to make a CPO order the Council has to consider the rights of property owners under the Convention, notably

Article 1 of the First Protocol - protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws;

Article 6 of the First Protocol – protects the right to a fair hearing. In cases to determine civil rights it protects the right to a public hearing before an independent and impartial tribunal within reasonable time.

Article 8 – protects private and family life, home and correspondence. No public authority can interfere with these rights except if it is in accordance with the law and necessary in the interest of national security. Public safety, or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others;

Article 14 – The enjoyment of the rights and freedoms in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, associated with national minority, property, birth or other status.

In the case of each of these Articles (and indeed other provisions in the Convention) the Council has to be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

There are a number of benefits which the works will deliver, specifically it will allow for Wylfa Newydd to be constructed. However, this needs to be balanced with the fact that land and rights along the proposed route of the Online and Offline Works will be affected (although most of the land affected is agricultural, no occupied residential dwelling is being acquired and the scheme will not displace anyone from their home).

Although this Report will not result in authorisation for the making or serving of a CPO, given the context of the Report and that ultimately CPOs may well follow, human rights considerations have been taken into account and it is considered that interference with private rights of those with an interest in the land likely to be required is outweighed by the public benefits which the scheme will bring through the construction and operation of Wylfa Newydd.

Funding of the works

HNP is currently promoting the Wylfa Newydd project with the support of its parent company Hitachi Ltd. Discussions to date confirm that HNP/Hitachi will be fully funding the Online and Offline improvements. This will be a prerequisite to the Council carrying out the works and will be covered in an Agreement between the Council and HNP/Hitachi under section 278 of the Highways Act 1980.

The work involved in acquiring the land and rights needed for the works and in progressing and securing Orders will be underwritten by HNP/Hitachi under an indemnity agreement.

Recommendation

In view of the above, it is requested that the Executive authorise the Head of Service – Highways, Waste and Property to :

(a) enter into an Agreement with Horizon Nuclear Power/Hitachi (HNP) under section 278 of the Highways Act 1980 and any other powers necessary in such form as the

the Head of Service – Highways, Waste and Property requires to ensure HNP indemnifies the Council for all costs and liabilities associated with progressing and promoting Compulsory Purchase Orders(s), Side Road Orders and any other Orders (“the Orders”) necessary to carry out construction and improvement works to the A5025 including associated works and mitigation and in undertaking all work in connection with the Orders, meeting the costs of acquisition of rights and interests in land in order to deliver the works and meeting all compensation liabilities of the Council which will or may arise out the Orders and acquisition of rights and interests;

(b) following completion of the Agreement in (a) above, undertake all steps necessary in preparation for making and serving the Orders. Such steps to include undertaking land searches and referencing of all interests and rights which may be required to deliver the construction and improvement works (including issuing requisitions for information under the Acquisition of Land Act 1981 and/or under the Highways Act 1980), preparing draft Orders and related documentation and undertaking all steps required to allow such Orders to be made and served should such action subsequently be authorised by the Executive;

(c) following completion of the Agreement in (a) above, enter into negotiations with those persons with an interest in land or rights needed to deliver the construction and improvement works in order to acquire, where possible, such land and rights by agreement, to include making offers to acquire such land and rights and entering into agreements to acquire such land and rights as the Head of Service – Highways, Waste and Property considers appropriate.

As noted in the report (above), a further report will be brought to the Executive to request authorisation for Orders to be made and served at the appropriate time should the interests and rights needed to deliver the works not be acquired by agreement and/or such Orders remain necessary.

As also noted above, this report relates specifically to the highway between A55 J3 and Wylfa Newydd along the A5 and A5025

B – What other options did you consider and why did you reject them and/or opt for this option?

The Council has entered into a Collaboration Agreement with HNP which confirms, in principle, that the Council would exercise statutory Highway Authority powers, including those of compulsory purchase. Currently, neither the Council nor HNP has sufficient control over the land required to deliver the highway works and it is therefore considered that compulsory purchase may be required. This report seeks authority to progress the steps required in preparation of such orders (as well as related orders) and to enable the Council to enter into negotiations with landowners to see if it is possible to acquire the necessary land and rights by Agreement. A

further report will be brought to the Executive before any Orders are made and served.

C – Why is this a decision for the Executive?

This report follows from the Executive Report of 16 March 2015 and the Collaboration Agreement entered into on 1 June 2015. It deals with matters in relation to Compulsory Purchase which fall within the remit of the Executive.

CH – Is this decision consistent with policy approved by the full Council?

Yes

D – Is this decision within the budget approved by the Council?

Yes. The cost of the work required by the Council is being underwritten by HNP.

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	Received comments on ensuring the justification for the works were robust in the report. Legal advice has been received on this.
2	Finance / Section 151 (mandatory)	Received a question on the cost of maintenance – there is intended to be a mechanism within the S278 agreements with HNP that ensure loACC maintenance costs do not increase
3	Legal / Monitoring Officer (mandatory)	None received
4	Human Resources (HR)	
5	Property	Dylan Edwards has been involved with the discussion around a potential CPO and he will be leading on the valuation for the CPO
6	Information Communication Technology (ICT)	
7	Scrutiny	
8	Local Members	Briefing session arranged on 1 st June for Highways Waste and Property Portfolio holder John Arwel Roberts, Twrcelyn members, Talybolion members and Llifon members – John Arwel Roberts and Joh

		Griffith attended and were happy with the content of the report
9	Any external bodies / other/s	Briefing session arranged for 8 th June with Dylan Williams Economic Development and Iwan Huws

E – Risks and any mitigation (if relevant)		
1	Economic	
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	

F - Appendices:
Plan showing extent of land

FF - Background papers (please contact the author of the Report for any further information):
<p>Report to the Executive of 9th June 2014 on Options in relation to securing improvements to the A5025 to facilitate the development proposals of HNP.</p> <p>Report to the Executive of 16 March 2015 on Partnership working proposals in relation to securing improvements to the A5025 and other highways to facilitate the development proposals of HNP.</p> <p>Highway Works Collaboration Agreement dated 1 June 2015 between the Council and HNP.</p>

