

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive Committee (16.03.15) Partnership and Regeneration Scrutiny Committee (12.03.15)
Date:	12th March and 16th March 2015
Subject:	Partnership working proposals in relation to securing improvements to the A5025 and other highways to facilitate the development proposals of Horizon Nuclear Power.
Portfolio Holder(s):	Councillor Richard Dew
Head of Service:	Dewi R Williams
Report Author: Tel: E-mail:	Arwel R Roberts 01248 72311 arrht@anglesey.gov.uk
Local Members:	N/a

A –Recommendation/s and reason/s
<p><u>Reason for reporting:</u></p> <p>1.1 To update Members on the progress of discussions with Horizon Nuclear Power (HNP) in relation to potential highway construction and improvement works required to the A5025 and other highways in order to facilitate the construction and operation of the proposed new nuclear power station at Wylfa.</p> <p><u>Recommendation:</u></p> <p>1.2 To authorise (a) the entering into by the Council as highway authority of a Collaboration Agreement with HNP in accordance with the Heads of Terms set out herein and (b) the entering into such further agreements or exercising such powers as are considered by the Head of Service (Environment & Technical) as necessary to give effect to the terms of the Collaboration Agreement and to allow any highways works covered by the terms of the Collaboration Agreement to be delivered.</p> <p><u>Reasons for recommendation:</u></p> <p>2.1 Given the timeline the Council understands HNP to have in mind for promoting the highway works, it is crucial that partnership working arrangements between the Council and HNP can be put in place as soon as practicable. The framework for partnership working would be provided by the Collaboration Agreement in the terms set out in the Heads of Terms.</p>

- 2.2 Officers have had informal discussions with HNP over the past 18 months on a number of issues connected with the development of Wylfa Newydd. Part of these discussions have centered around HNPs intentions to undertake or fund highway construction and improvement works to the A5025 and other highways in order to facilitate the construction and operation of the new nuclear power station.
- 2.3 The discussions with Officers identified a number of issues which required further consideration in the context of progressing the consenting of these works. They included design, planning, procurement, consultation and land acquisition. The Executive authorised the progression of discussions by officers with HNP on 9th June 2014 with the intention of creating a framework under which partnership working on the identified issues could be undertaken.
- 2.4 As required by the terms of the previous authorisation, this report sets out the Heads of Terms of a proposed contractual arrangement (Collaboration Agreement) developed by officers for consideration by the Executive. Provided that the Executive is satisfied with the Heads of Terms the report seeks authorisation for the Council to enter into a Collaboration Agreement with HNP in line with the Heads of Terms to give effect to the delivery of highway improvements.

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

The proposed partnership working approach and the limits thereof are the key consideration. The Council may have a role in promoting and procuring highway works which would be undertaken in its capacity as Highways Authority. The Council's reason for entering into partnership working is to protect highway infrastructure and ensure that works are designed and undertaken to the required standards and is therefore acting in the public interest.

The Council's role as Highway Authority and the separation from other roles, particularly as local and Planning Authority have been considered and provided for. The Collaboration Agreement would be entered into by the Council as Highways Authority only, it will not bind any other function of the Council. The highways assessment of any planning applications will be undertaken by officers not involved in the partnership arrangement and who have not been involved in the design work.

A partnership arrangement may risk creating an impression of pre-determination of decisions related to HNP by the Council, particularly planning applications. While measures have been put in place to address this in practice some perception issues may remain. This concern is considered by officers to be outweighed by the essential need to use partnership working to deliver the required road improvements to an appropriate standard within the timescale for the project.

The Council, by entering into the Collaboration Agreement, agrees in principle to exercise statutory Highway Authority powers including those of compulsory purchase. The exercise of any statutory power would be subject to specific consideration of the facts and circumstances as required.

C – Why is this a decision for the Executive?

The Executive resolved on 9th June 2014 that any partnering or joint working arrangement progressed would be brought back to the Executive for consideration before it is entered into by the Council.

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

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	
2	Finance / Section 151 (mandatory)	
3	Legal / Monitoring Officer (mandatory)	
4	Human Resources (HR)	
5	Property	
6	Information Communication Technology (ICT)	
7	Scrutiny	
8(a)	Local Members	
8(b)	Chief Planning Officer	

9	Any external bodies / other/s	<p>‘The Collaboration Agreement relates to the functions and responsibilities of the ‘non-statutory’ elements of the improvements required to the roads associated with the nuclear new build project at Wylfa.</p> <p>It is important for the Members to note that the ‘statutory’ Planning responsibilities of the Authority will be divorced from the terms of the Agreement’.</p>
----------	--------------------------------------	---

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:
1. Summary of Heads of Terms for Collaboration Agreement between Isle of Anglesey County Council as Highways Authority and Horizon Nuclear Power.

FF - Background papers (please contact the author of the Report for any further information):
Report to the Executive Committee, 9 th June 2014, on Options in relation to securing improvements to the A5025 to facilitate the development proposals of Horizon Nuclear Power.

Background to Partnership Working with Horizon

Introduction

- 1.1 The development of a new nuclear power plant at Wylfa will require the delivery of improvements to the existing highway network on Anglesey. The Council has set out its evidenced based approach to the assessment of necessary highway improvements within the Supplementary Planning Guidance (SPG). This recognises the need for improvements to the A5025 and Lôn Nanner. The SPG sets out the requirement that such improvements have regard to the key policy messages set out therein and integrate with the wider transport issues rather than being treated as stand-alone points of constraint.
- 1.2 The works proposed to improve the road network by HNP include new stretches of highway and junctions, improvements to existing highways and subsequent alterations to existing highways. Where new stretches of highway are proposed the Council as Highways Authority will become responsible for maintaining these. The Council is ultimately responsible for all publically maintained Highways on Anglesey and therefore requires to be satisfied with the design and construction of any proposed works which it will become responsible for. Where highway construction and improvement works are funded by a private developer, such works need to be approved by the Council as highway authority and strict arrangements put in place to ensure they are delivered and completed in accordance with the Council's requirements. The Council's highway officers have been in discussion with HNP to establish how they can work in partnership to deliver road improvements within the statutory framework, to the required standards and within timescale.

Issues

- 2.1 Officers understand that HNP are working to a tight timescale with respect to consenting and delivering highway construction and improvement works. Therefore a clear strategy needs to be in place in the short term to ensure the consenting, procurement and delivery of such works can be timeously progressed. That strategy will be agreed and managed under the terms of the proposed Collaboration Agreement.
- 2.2 The Collaboration Agreement will cover works to highways which are needed or proposed in relation to the construction and operation of the new nuclear build at Wylfa and includes works to roads, footpaths, bridleways and cycle paths. The Heads of Terms set out in brief the provisions which would be included in the Collaboration Agreement and provides a framework for the progression of the detail of the works.
- 2.3 It is envisaged that the design of the works will be led by HNP and their consultants and agreed by the Council. Officers have had preliminary discussions with HNP which have looked in general at design issues. Works may be procured or carried out by the Council at HNP's cost or by HNP directly depending on the agreed approach and availability of powers in each case.

- 2.4 The works proposed will fall under a variety of statutory provisions and will require the exercise of a number of statutory powers by the Council. These may include providing access to land in connection with the works or the making of side road orders, stopping up orders, traffic regulation orders and diversion orders.
- 2.5 In order to ensure that the works can be progressed timeously a variety of agreements will need to be entered into depending on the particular circumstances of the works. These agreements may include Section 38 (Highways Adoption) agreements, Section 278 (Highways Agreements) and contractual and/or agency agreements regarding procurement of works, transfer of land and reimbursement of costs.
- 2.6 The agreed Heads of Terms outline the scope of the partnership and are summarised at the end of this report. It is recommended that Members consider, in particular, the following key points:
- a) The Council is proposing to enter this Collaboration Agreement as Highways Authority only; it will not bind or affect any decision or action of the Council in any other capacity, including as Planning Authority. In order to ensure that conflicts do not arise the Heads of Terms provide that separate officers will be involved in the partnership working arrangement under this agreement from those allocated to the planning and consenting function.
 - b) The Heads of Terms provides the structure for consenting and procurement strategies to be adopted under the partnership working arrangements following agreement on the detailed proposals.
 - c) The proposed Collaboration Agreement would cover works to Lôn Nanner and the A5025 with the ability to add in works to other highways where agreed.
 - d) By entering into the Collaboration Agreement, the Council is agreeing in principle to use Compulsory Purchase powers if these are necessary to deliver the land to allow the highway works. Given the nature of Compulsory Purchase a decision on whether or not to exercise these powers would require to be made on a case by case basis and this term does not commit the Council to using these powers in any particular case where the public interest requirement or any other pre-requisite of such use is not considered to be met.
 - e) The Collaboration Agreement envisages that the Council, in its capacity as Highways Authority, will undertake statutory processes and use statutory powers to ensure that the works can be delivered; this includes making orders under the Highways Act powers where necessary.
 - f) HNP will be responsible for the costs incurred by the Council in undertaking work under the partnership working arrangement. This will include internal staff costs and external advisors' fees. Any costs incurred by the Council in carrying out any highway improvement works, acquiring any land or using any statutory power to acquire land will also be paid by HNP.

g) Further agreements – The Collaboration Agreement will give the Council the ability to enter into such other documentation as is necessary to give effect to the agreement. This will include Section 278 agreements concerning highways works, contractual arrangements pertaining to the costs of any use of Compulsory Purchase powers, and agreements relating to the procurement, engagement and payment of advisors, consultants and contractors. By entering into the Collaboration Agreement the Council would be able to enter these further agreements as necessary (provided any statutory tests/requirements in relation to each proposed agreement is met).

Summary of Heads of Terms for Collaboration Agreement between Isle of Anglesey County Council as Highways Authority and Horizon Nuclear Power Wylfa Limited.

1. The agreement will cover any works affecting highways within IACC's administrative area specifically including Lôn Nanner and the A5025. Other roads can be included by agreement.
2. The Heads of Terms require the parties to work together to deliver the highway works. To do this the parties will agree joint working arrangements (including a document sharing protocol and press protocol) and consenting and procurement strategies setting out how each process will be run and which party will lead on which elements of the project. This will also include a process for agreeing the design of any proposed improvement works.
3. HNP agree to meet the costs of supporting IACC in providing staff to the improvement project and of the Council obtaining external consultants or contractors where appropriate.
4. HNP agree to meet the costs of carrying out the highway improvements.
5. IACC as Highways Authority agrees to support in principle the use of compulsory purchase powers to deliver highways works.
6. The agreement will remain in force until one year after the construction of the last highway improvement unless earlier terminated. Either party may terminate the agreement on giving appropriate notice.
7. A dispute resolution procedure setting out how any dispute can be escalated within the Council and HNP before resorting to external dispute resolution (including court action) is included.
8. IACC will allocate different officers to work under the agreement from those allocated to work on any planning or related application.