

Portishead Branch Line (MetroWest Phase 1)

Division of Roles & Responsibilities

Updated Version: May 2019

1. INTRODUCTION

1.1 The Portishead branch line re-opening (the DCO Scheme) is part of the wider MetroWest Phase 1 Project. MetroWest Phase 1 includes

1.1.1 re-opening the Portishead branch line for passenger train services;

1.1.2 upgrading the passenger train service for the Severn Beach Line; and

1.1.3 Improvements to the passenger train service on the Bath Spa to Bristol Temple Meads line.

A 5km section of the Portishead branch line is disused and the proposal to re-open the line would require consent the Planning Act 2008 as a Nationally Significant Infrastructure Project (NSIP). NSIPs are consented by the Secretary of State through the Development Consent Order (DCO) process managed by the Planning Inspectorate. New stations are proposed at Portishead and Pill.

1.2 The application for powers in the DCO will also include provision for works to the existing operational freight line from Royal Portbury Dock to Ashton Junction in Bristol, next to Imperial Tobacco's HQ – the Portbury Freight Line. Associated works to the highway network, principally at Ashton Vale to form a new access to the industrial estate and at the new Portishead station are also proposed. These are also included in the DCO Scheme, as associated development.

1.3 In addition to the infrastructure proposed to be authorised by the DCO various minor works are required within the existing operational railway to deliver the rest of the Project, including but not limited to works at Bathampton, Avonmouth/Severn Beach, Bedminster and Parson Street Junction. These works are to be taken forward using Network Rail's general permitted development rights.

1.4 Metrowest Phase 1 is being promoted by the West of England Combined Authority (WECA), on behalf of its three constituent unitary councils (Bath & North East Somerset, Bristol City, and South Gloucestershire Councils, together with North Somerset District Council – the MetroWest Authorities.

1.5 The part of MetroWest Phase 1 that requires a DCO falls mainly within the local government boundary of North Somerset District Council. A small section is within the administrative area of Bristol City Council, in the Ashton and Bower Ashton areas of the City. .

1.6 Both North Somerset District Council and Bristol City Councils are section 43 (1) authorities (S43 Planning Act 2008) as well as promoters of MetroWest Phase 1. As neighbouring authorities, Bath and North East Somerset and South Gloucestershire District Councils are S43 (2) authorities, as authorities bordering the areas within which the DCO Scheme will be constructed, as well as MetroWest Phase 1 promoters.

1.7 All four local authorities and WECA will be invited by the Examining Authority (ExA) - the inspector(s) appointed by the Planning Inspectorate on behalf of the Secretary of State who will examine the Application - to submit a Local Impact Report during the examination of the proposed DCO, to inform the ExA of the likely impacts of the MetroWest Phase 1 Project on their areas.

1.8 This means all four Councils and WECA have key roles as

- 1.8.1 pre application consultees;
 - 1.8.2 commenting on adequacy of consultation; and
 - 1.8.3 providing support to the ExA during examination, in particular (but by no means only in) providing Local Impact Reports to assist the EA in evaluating the impacts of the DCO Scheme on local interests.
- 1.9 In addition the host local authorities – North Somerset District Council and Bristol City Council, have roles as
- 1.9.1 local planning authority
 - 1.9.2 Highway and traffic authority
 - 1.9.3 Lead local flood authority
- which must be kept separate from their roles in promoting the DCO Scheme.
- 1.10 The fact the Councils are also actively promoting the DCO Scheme being considered needs to be recognised and procedures put in place to ensure the statutory roles of the Councils as formal consultees and in assisting the ExA are clearly demarcated.
- 1.11 Local authorities are not unused to having to deal with a separation of roles and responsibilities but it must be made clear to all engaged in the process the statutory role they are fulfilling.
- 1.12 It is also important to consider the role of external consultants and the potential for an organisation performing roles for both the Council as promoter and as regulatory authority. Where such situations exist, the consultant firm should be asked to provide separate teams for the different parts of the authorities and reminded of the need for that team to advise in the role appropriate to their instructions and without influence arising from the consultant firm being instructed by another part of the Council. An individual should not advise both sides of the Council in the process.
- 1.13 It is anticipated the Application for the DCO Scheme will be submitted in July 2019. The main construction phase is planned to commence in 2021 with completion 2023.

2. PURPOSE OF THIS DOCUMENT

- 2.1 This document has been prepared to set out clearly the roles and responsibilities for the staff at the four MetroWest Authorities dealing with MetroWest Phase 1. Tasks for the MetroWest Authorities as promoters of the DCO Scheme include the production of Environmental Impact Assessment (EIA) and preparation of a Consultation Report. Previous versions have been issued to the local authorities at key pre application stages.
- 2.2 This document is intended to show how the processes and functions of the MetroWest Authorities will be separated to allow for the appropriate consideration by the relevant officers of the MetroWest Authorities. It also deals with the requirements on Members to consider the function within which they are operating.
- 2.3 The MetroWest Authorities should seek to adhere to the principle that no staff member working on the DCO Scheme will contribute to any consultation responses in relation to the statutory and regulatory functions of the MetroWest Authorities including responses to the either the EIA or processes relating to the DCO.
- 2.4 **It is important to ensure there is a clear separation of roles within the MetroWest Authorities such that the staff leading on MetroWest Phase 1 are separated from staff leading on statutory and regulatory functions.**

- 2.5 It is also important that this separation is maintained for the duration of the development of MetroWest Phase 1, through to construction and opening, including the stages of the DCO process where authority staff will be involved in Local Impact Reports, Responses to ExA Questions and attendance at Hearings.
- 2.6 This document therefore sets out the different roles of officers to explain how a separation of roles and functions should be built in to the processes for dealing with the DCO Scheme. Where Members will have to fulfil a role in the process, this is also briefly described.
- 2.7 Figure 1 sets out an overview of the MetroWest Phase 1 project governance.

3. GLOSSARY OF TERMS

A Glossary of Terms is provided to assist with some of the DCO related terms used in this document:

1. *Adequacy of Consultation Representation*: a report on the Applicant's pre application consultation provided by the relevant local authorities to assist the Planning inspectorate in determining if pre application consultation was carried out appropriately.
2. *Applicant*: North Somerset District Council on behalf of the MetroWest Authorities
3. *Application*: the application for a DCO to authorize the re-opening of the Portishead Railway
4. *Development Consent Order (DCO)*: an Order made under the Planning Act 2008 authorising NSIPs
5. *Examination*: the process by which the ExA consider the Application
6. *Local Impact Report (LIR)*: a report submitted by the relevant local authority during the Examination, setting out that authority's views of the likely impact of the Scheme on its administrative area
7. *MetroWest Authorities*: WECA on behalf of Bath and North East Somerset Council, Bristol City Council, and South Gloucestershire District Council together with North Somerset District Council
8. *Portishead Railway*: The existing freight line from Parson Street Junction to Portbury Dock Junction and the re-opened railway from Portbury Dock Junction to Portishead
9. *PROW*: public rights of way
10. *Secretary of State*: The Secretary of State for Transport, who will decide on the Application.

4. NORTH SOMERSET DISTRICT COUNCIL – SUMMARY OF ROLES – PROMOTING THE DCO

4.1 Development Consent Order Promotion and Application

4.1.1 Overview

The DCO is being drafted by a team at Womble Bond Dickinson LLP Solicitors, instructed by the MetroWest authorities. They receive their instructions from James Wilcock, the MetroWest Phase1 Project Manager.

4.1.2 NSDC Staff roles – Applying for Development Consent Order

Leading the application process, attending key meetings with PINS and Stakeholders, briefing members, liaising with Network Rail, controlling budgets, leading on key decisions, overseeing the project design and all technical workstreams, overseeing

land assembly, approving document production, providing evidence at hearings and administering the Application process.

The staff at NSDC progressing the Application, and responsible for undertaking the above activities include:

- (i) James Willcock
- (ii) Jenny Devereux
- (iii) Richard Matthews
- (iv) Steve Penaluna

Their roles are:

- (a) Promoting the DCO – leading on the process for consultation, preparing the Application and providing evidence at the Examination.
- (b) Environmental Impact Assessment (EIA) - NSDC staff will provide instructions, attend meetings and integrate the EIA consultants' work with the other workstreams, NSDC staff will attend key meetings and decide on what mitigation measures can be offered in the Environmental Statement.
- (c) Habitats Regulations - procuring reports to inform the competent authority and Natural England on the impacts of the DCO Scheme.
- (d) Consultation Requirements – ensuring the statutory consultation requirements are complied with and evidenced.
- (e) Responding to Local Impact Reports (LIR) – the promoting team will need to consider and respond to LIR.
- (f) Land - the promoting team will provide instructions on negotiations with landowners and decide the terms for acquisition.
- (g) Highway, Public Rights of Way and Traffic issues - the promoting team will commission the design of new highways and accesses and decide on the proposed impacts on public rights of way to be sought in the DCO.

4.1.3 *Role of Members – Development Consent Order promotion*

(a) *Key decisions on the Application*

Members will need to approve expenditure for the promotion of the Application. Members will also have to resolve that the Application should be made, having first considered the human rights and equalities impacts of the proposed Order.

The relevant report is to be considered by Full Council.

If the Application is successful, Members will also be asked for final approval for the Project to commence, upon the full business case being worked up.

(b) *Land*

It is possible land acquisitions may be outside of the delegation to officers and member approval may be needed.

Members may also need to consider the appropriation of land held by NSDC but required for the MetroWest Phase 1 Project.

5. CONSIDERING THE PROPOSED DCO – THE ROLE OF THE METROWEST AUTHORITIES AS SECTION 43 AUTHORITIES

5.1 The DCO – general

Officers in their capacity of carrying out development management and regulatory functions in will need to consider key aspects of the DCO such as requirements and highways provisions. Specialist officers will also need to consider elements of the evidence supporting the DCO and be engaged in pre- and post-application consultations.

5.2 Environmental Impact Assessment (EIA)

The EIA process is iterative and officers will be consulted by the promoting team for the Application on the impacts of the DCO Scheme on the environment. This will be during the consultation stages. At examination officers responsible for EIA response may be asked to inform the ExA on their views of the findings in the Environmental Assessment.

The Council's specialist staff on particular issues will be called on by the Applicant and if necessary the ExA. If external consultants are used they should also be separate from the Applicant's external team.

5.3 Consideration of Habitats Regulations Applications

5.3.1 Depending on the processes followed by the promoter, it is possible that the Council may find itself the competent authority for considering Habitats Regulations applications – this would apply if Network Rail seeks to take works forward under permitted development rights. However it is likely that the role of the Council will be to provide advice to both the Applicant but also the Secretary of State in considering any Habitats Regulations assessment required as a result of matters being included in the DCO application.

5.3.2 Staff - Habitats Regulations

The staff at NSDC specialist in their various areas will be called on to assist the promoter and if necessary the ExA at examination. Officers separate from the team promoting the Project must undertake this role.

5.4 Consultation obligations

5.4.1 The Councils will be invited by the Planning Inspectorate to consider the adequacy of pre-application consultation undertaken by the Applicant. This will occur during the month during which acceptance is resolved upon by the Planning Inspectorate. An Adequacy of Consultation representation will be requested by the Planning Inspectorate during this time.

5.4.2 It is essential that the officers responding are not in any way involved in the promotion of the Application.

5.5 Local Impact Report – Preparation

As with the Adequacy of Consultation report, it is essential that the Local Impact Report is prepared by officers who have not been involved in the promotion of the application for the DCO. The Council's economic development, planning and highways officers will be required to give their views on the anticipated local impacts, whether positive, negative or neutral.

5.6 *Highways*

5.6.1 The Order will seek powers for a number of highway works including diversion of Quays Avenue, the creation of new private means of access and the stopping up (either with or without replacement) of certain public rights of way over the railway.

5.6.2 North Somerset District Council as highway authority needs to consider any application proposals and their impacts on the highway as if the plans were being submitted by a developer. The same applies to Bristol City Council for its administrative area. The Council's highways and public rights of way officers may also be asked to provide evidence in examination.

5.6.3 The Case Officer for the Council is Colin Chandler

5.7 *Planning*

5.7.1 North Somerset District Council as local planning authority needs to consider any of application's proposals for development consent and the requirements (akin to conditions attached to planning permissions) that will be included in the DCO. The Council's case officer has met with and continues to meet with the applicant team to discuss the likely requirements to be imposed on the DCO Scheme as well as the required mitigation for the DCO scheme. Discussion has also taken place on the design and access statement that will accompany the application for development consent.

5.7.2 The Case Officer for the Council Roger Wilmot

6. REPRESENTATIONS AT HEARINGS AND APPROVING STATEMENTS OF COMMON GROUND.

6.1 As indicated above the MetroWest Authorities, when requested in examination by the ExA to provide evidence on matters in issue, must be separately represented.

6.2 The settling of Statements of Common Ground (SoCG) with Applicant is also a key process for the MetroWest Authorities to consider when carrying out their statutory functions. Designating the relevant officers and considering if member approval may be needed for SoCG will need to be considered. Officers agreeing SOCG for the Council in its regulatory role must be entirely separate from those officers involved in the promotion of the Project.

7. THE ROLE OF MEMBERS IN CONSIDERING THE LOCAL IMPACT REPORT

The MetroWest Authorities may decide that members should agree and approve in Committee the Local Impact Report. This will be requested during the examination, but the document should, if it is to be considered by members, be on the Forward Plan for the autumn of 2019 to ensure that the report is appropriately timetabled to fit in with the examination.

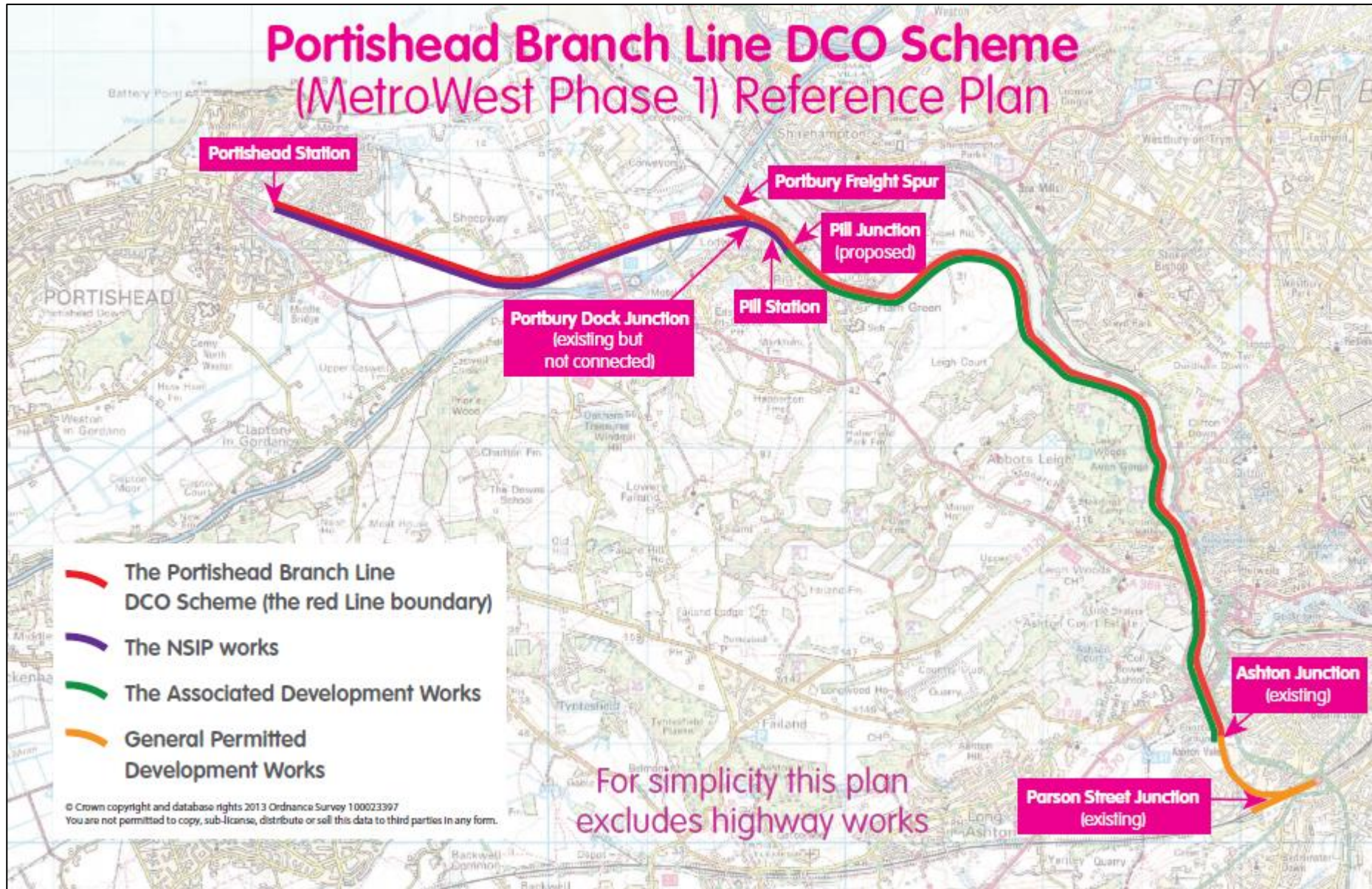


Fig 1. Project Governance

