

# DECISION DOCUMENT

Property Compensation Consultation 2013  
for the London-West Midlands HS2 route



# **Property Compensation Consultation 2013 for the London-West Midlands HS2 route:**

**Decision document**

Presented to Parliament  
by the Secretary of State for Transport  
by Command of Her Majesty

April 2014



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# Introduction

## High speed rail

On 10 January 2012 the Secretary of State for Transport announced that the Government had decided to proceed with plans to build a new high speed rail network (High Speed Two, 'HS2') to address the capacity crisis facing Britain's transport network, and that it would be built in two phases.

Phase One will run between London Euston and the West Midlands, with a new station built in central Birmingham, and linking to the existing West Coast Main Line (WCML) (north of Lichfield).

Phase Two will extend the high speed rail network from the West Midlands to both Manchester and Leeds. The proposed route will include stations at an East Midlands Hub near Toton, Sheffield Meadowhall in South Yorkshire, Leeds, Manchester Airport and Manchester Piccadilly. The proposals also include further connections to the existing East Coast Main Line (ECML) and WCML.

Transport infrastructure is vital to economic growth and there are many ways in which this investment can influence both the overall level of growth and the distribution of activity throughout the economy. HS2 will transform links between cities and give companies and employees access to a wider range of markets and jobs.

The connections it will provide, linking eight of Britain's largest cities, will radically re-shape the economic geography of the nation, bringing our cities closer together and rebalancing growth and opportunities.

HS2 has been designed with great care and extensive mitigation so that its impact on communities and the environment is as low as practicable. The route from London to the West Midlands will have 29.3 miles of tunnel. It will be extensively landscaped and have high quality noise mitigation measures. It will also be operated by trains which are quieter than those in operation today.

Nevertheless, it is not possible to build a railway on this scale without any impact on properties along the route. In recognition of this fact, the Government has always been committed to providing fair assistance to those directly affected by HS2. We have already gone beyond what is required by law and we intend to go further. The measures outlined in this document demonstrate our commitment to assisting affected property owners, and this is a commitment which will endure as we continue to seek new and innovative ways to support property owners during and after the construction of HS2.

# Summary of Government intentions following consultation

Following this consultation the Government will introduce an HS2 property package as follows:

- **Express Purchase** for owner-occupied properties within the safeguarded area. The safeguarded area typically extends to 60m around the railway line for most of its route. Maps are available at [www.hs2.org.uk](http://www.hs2.org.uk) to show this area. The Government is now confirming that it will be prepared to buy all owner-occupied<sup>1</sup> property in this zone under an expedited process. This scheme will be introduced from 9 April 2014.
- A **Voluntary Purchase Offer** available to people up to 120m from the railway in rural areas. Eligible owner-occupiers between the safeguarded area and 120m will be able to ask the Government to buy their homes at un-blighted Market Value. This scheme will be opened to applicants in autumn 2014, following the further consultation described below.
- A **Need to Sell Scheme** to assist property owners who have a compelling need to sell their home but are unable to do so because of our plans to build HS2. There would be no outer boundary to this scheme. This will be opened to applicants at the same time as the Voluntary Purchase Offer, and would succeed the current Exceptional Hardship Scheme for Phase One, which would be closed.
- **Rent-back**, a rule that means that if a property that the Government has purchased under any of our schemes is suitable for letting, the previous owner can, if they wish, be considered for a Crown tenancy. This scheme will be introduced from 9 April 2014.

We will consult separately over the summer on two supplementary cash payment schemes:

- For owner-occupiers in the Voluntary Purchase area, an **alternative cash offer** of 10% of the un-blighted market value of their property, with a cap of £100,000 and a minimum payment of £30,000. This may help some people decide they do not need to move to protect the value of their investment in their home.
- A **Homeowner Payment Scheme** to provide cash payments to eligible owner-occupiers between 120m and 300m from the centre line, following Royal Assent of the Phase One hybrid Bill, enabling affected residents to share early in the future economic benefits of the railway.
- We will seek views on consequential changes to the Voluntary Purchase Offer and the Need to Sell Scheme, for example to enable any cash payments received to be reclaimed from homeowners who later choose to sell their homes to us under either of these schemes.

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<sup>1</sup> As defined under the Town and Country Planning Act (1990)

# 1 What did we consult on?

## 1.1 The purpose of the consultation

- 1.1.1 The consultation, which ran from 12 September to 4 December 2013, sought the public's views on proposals for long-term discretionary property compensation schemes to assist owner-occupiers of properties affected by Phase One of HS2.
- 1.1.2 Measures to assist property owners and occupiers affected by new infrastructure have developed over the years through a mixture of statute, case law and established practice and are referred to as the Compensation Code<sup>2</sup>. These measures offer a sound basis for compensation for those individuals affected by infrastructure projects and have been widely and successfully employed for many years.
- 1.1.3 While the Government remains confident that reliance on the existing Compensation Code is appropriate for the majority of infrastructure schemes, due to the exceptional nature of the HS2 project we believe that we should go further by introducing a range of discretionary measures specific to HS2 to work alongside the Compensation Code.
- 1.1.4 The Government has long been committed to introducing further measures for those directly affected by HS2 which go beyond what is required by law. In 2010, a discretionary Exceptional Hardship Scheme (EHS) was launched as a temporary measure to assist owner-occupiers along the route of Phase One of HS2 who have an urgent need to sell but have been unable to do so other than at a substantially reduced price as a direct result of HS2.
- 1.1.5 Proposals put forward in *Property Compensation Consultation 2013: For the London-West Midlands HS2 route* (the September 2013 consultation document) were designed to replace the EHS for Phase One of the line with a variety of measures providing long-term assistance to home owners most directly affected by this phase of the route.

## 1.2 Overview of the proposals

- 1.2.1 The Government consulted on the following measures:
- **express purchase** for qualifying owner-occupiers within the safeguarded area;
  - a **long-term hardship scheme** for owner-occupiers who have strong personal reasons to sell but cannot do so, other than at significant loss, because of HS2;
  - a **sale and rent back** scheme and an **alternative approach** to renting properties back to their former owners; and  
within a rural support zone:
  - A **voluntary purchase** scheme; or
  - A **property bond** scheme.

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<sup>2</sup> The principle acts are the Land Compensation Acts of 1961 and 1973 and the Compulsory Purchase Act 1965

## **1.3 Measures already announced in relation to properties above tunnels and lost social rented housing**

1.3.1 A previous consultation on property compensation which ran from October 2012 – January 2013 included specific proposals for tunnelled sections of the HS2 route and for an approach to the replacement of lost social rented housing. In the September 2013 consultation we said that we would not be consulting again on these two policy areas. In November 2013 the Government published two decisions documents regarding its proposals for social rented housing and properties above tunnels respectively. The decisions are summarised below. These documents can be found at: [www.hs2.org.uk](http://www.hs2.org.uk).

### **Government decision on approach to social rented housing**

1.3.2 The Government confirmed its commitment to working with local authorities, tenants and other key stakeholders in order to find the most appropriate solutions for the replacement of social rented housing lost due to Phase One of HS2. We will maintain this approach and do not, therefore, accept that the further measures in this document should be applicable to social rented housing.

### **Government decision on properties above tunnels**

1.3.3 State-of-the art engineering and construction techniques mean that the physical effects (should there be any) on properties above deep-bored tunnels would be very limited.

1.3.4 To provide complete reassurance, in the November 2013 decision document the Government announced three measures relevant to individuals who own properties above tunnels. These are:

- Before and after surveys;
- Settlement Deeds; and
- Acquisition of subsoil rights.

1.3.5 The Government does not consider it appropriate for those living above or near deep bored tunnels to be eligible for the full range of compensation schemes for Phase One. However it is accepted that owner-occupiers of properties above deep-bored tunnelled sections of the route should be given the opportunity to make a case under the Need to Sell Scheme, as discussed in chapter [5] of this document.

1.3.6 Where a property is located close to surface infrastructure associated with tunnels such as ventilation shafts, or in close proximity to tunnel portals, reference should be made to the guidance notes for our long-term property schemes in order to determine the eligibility.

## **1.4 What about construction activity?**

1.4.1 Many respondents to the consultation raised concerns regarding the impact caused by construction activities associated with HS2. It was frequently asserted, for instance, that compensation measures should be set out to address anxieties around the potential impacts of construction.

- 1.4.2 Some consultation responses called for compensation to be provided to individuals based upon the presence of construction traffic or the actions of contractors and subcontractors in the local area. Since the consultation began, the Government has deposited a hybrid Bill in Parliament seeking powers to construct Phase One of HS2. Alongside this Bill, a number of associated documents were also deposited; among them, a *Code of Construction Practice*. This document sets out in some detail the anticipated construction activities associated with Phase One of HS2, and we hope that it will assist in limiting general anxiety surrounding this element of the project. The *Code of Construction Practice* can be found at: [www.hs2.org.uk](http://www.hs2.org.uk)
- 1.4.3 Though the Government is sensitive to concerns regarding construction traffic, we do not believe that it is reasonable or practical for the taxpayer to provide financial compensation because of it. It is normal to expect construction traffic of one sort or another to be present in any community, ensuring that property owners can improve their own properties, private developments can be built, or that public sector investment can take place in schools, hospitals and other infrastructure.
- 1.4.4 The compensation measures we outline in this document provide remedies for those who are substantively affected by construction or operation of the railway. However we do not consider that widespread compensation measures should be put in place purely with regard to temporary construction activity such as traffic.

## 1.5 What about Phase Two?

- 1.5.1 The consultation to which this document responds related only to properties affected by Phase One of HS2. For Phase One the Government has announced the route for the railway following a consultation process. On Phase Two a route consultation has been held but no decisions have yet been taken.
- 1.5.2 The long-term property schemes for Phase One will be the starting point for our approach to long-term discretionary property compensation for Phase Two. Nevertheless, the Government cannot promise now that the Phase Two schemes will definitely be the same or, indeed, different.
- 1.5.3 We are already working to analyse the responses to the Phase Two route consultation and expect to consult in due course on our proposed approach to property compensation for this phase of the HS2 route.

## 2 The Government's decision

### 2.1 Response analysis

- 2.1.1 The Government received 17,780 responses to this consultation from a range of individuals and organisations. Dialogue by Design were contracted as an independent analysis organisation to collate and analyse these responses, publishing a detailed summary report outlining the main themes, comments and suggestions which were presented across the full range of consultation responses.
- 2.1.2 You can view the Dialogue by Design report in full at: [www.hs2.org.uk](http://www.hs2.org.uk)
- 2.1.3 Responses to previous Government consultations on property compensation were not analysed or taken into account in relation to the September 2013 consultation. Moreover, such responses are not reflected in the Dialogue by Design report.

### 2.2 What did we learn?

- 2.2.1 The consultation responses included a wide variety of comments, though many of these comments cover similar themes such as eligibility for compensation, the extent of compensation coverage and generosity, and the operation of the proposed compensation schemes. The major issues, concerns and comments arising from the consultation are discussed in the relevant chapters of this document, linking them to the compensation proposal to which they relate.
- 2.2.2 Responses also reflected concerns about specific communities or locations, such as Camden. It was suggested, for instance, that bespoke compensation measures ought to be put in place for certain areas. The Government considers that property compensation should be put in place to assist the *individuals* most directly affected by HS2 and that such measures should reflect the broader impacts on property owners rather than those of specific communities. As such, we have developed a set of consistent measures for property owners along the full length of the line, with one additional measure to assist those in rural areas, for whom HS2 will have a greater impact.
- 2.2.3 This said, a number of responses demonstrated an interest in maintaining community cohesion along the route and the Government agrees that more could be done to help keep communities together, particularly where properties lie close to the line of route. It is for this reason that while we consider that the Voluntary Purchase Offer that we consulted upon is a more appropriate mechanism of discretionary compensation than a property bond, we wish to ensure that we are also adequately addressing the concerns around community cohesion, being one of our criteria for these schemes. Accordingly we propose to consult on whether there should be revisions to it which will give owner-occupiers eligible for the proposed Voluntary Purchase Offer the option to either ask the Government to purchase their property or to remain in the community and receive 10% of the value of their home.

- 2.2.4 The Government has also adopted an approach to atypical properties and special circumstances in order to avoid unfairly disadvantaging certain individuals and to ensure that all those who take advantage of discretionary measures for HS2 are given the assistance or support that they need. Further details are provided in chapter 9.
- 2.2.5 Some respondents to the consultation sought measures to assist property owners who are seeking to re-mortgage or who find themselves in negative equity. Such specific issues, however, are not within the scope of the September 2013 consultation unless they are so severe as to necessitate a sale of a property<sup>3</sup>. Though the Government sympathises with individuals who find themselves in financial difficulty, it would not be appropriate to use HS2 property purchase schemes as a vehicle for underwriting mortgages, or intervening to ensure that property owners do not fall into negative equity; not least because HS2 may not be the origin of the problem.
- 2.2.6 Further, some comments in response to the consultation made suggestions on much broader principles, such as changes to elements of the taxation arrangements relevant to property purchase, or modifying planning restrictions in order to facilitate the replacement of lost property. These issues are, however, beyond the scope of a consultation on discretionary property compensation and therefore have not been addressed directly.
- 2.2.7 Many of the consultation responses also called for the provision of compensation for all losses caused by generalised blight associated with HS2. Though on the face of it, this may seem an obvious course of action, we do not believe that it would be possible to fairly and accurately assess the true impact of generalised blight, not least because it is a temporary phenomenon based largely upon the fears of individuals and perceptions of the railway's effect which may be exaggerated. The Government must be careful not to inadvertently deepen and harden blight by incentivising some individuals to 'talk up' the potential impact of HS2 in order to claim a larger payment from the Government.
- 2.2.8 We do, however, recognise that some (mainly urban) areas are likely to benefit more directly from HS2 once it is built. Moreover, the short term effects on communities caused by planning and construction of HS2 are likely to be most readily felt in rural areas. The Government considers that it is only right to spread the benefits of HS2 in advance of its completion and we propose to launch a consultation shortly on a Home Owner Payment which would provide substantial lump-sum payments to individuals close to Phase One of HS2 but outside the safeguarding or rural support zones.
- 2.2.9 Some responses to the consultation suggested that the measures should be built into statute, for instance through the hybrid Bill for Phase One of HS2. However the Secretary of State has the powers to launch discretionary schemes without further legislation.

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<sup>3</sup> In which case they may fit within the consulted upon "hardship" scheme, now known as the "Need to Sell Scheme".

- 2.2.10 The response to consultation also showed a strong desire among respondents for the provision of information and explanation with regard to the HS2 project as a whole as well as to property compensation. It remains the Government's intention to provide clear and comprehensive information to the public wherever possible. Should you require any further information or assistance, the HS2 Ltd public enquiries team is available via telephone on:

**020 7944 4908**

(Phone lines are open Monday to Friday, 9am to 5pm);

Or via e-mail at:

***HS2enquiries@hs2.org.uk***

## **2.3 Policy decision**

- 2.3.1 We will immediately launch an Express Purchase Offer for owner-occupied properties within the safeguarded area.
- 2.3.2 Later this year we will launch a Voluntary Purchase Offer in rural areas, enabling the Government to buy the homes of eligible owner-occupiers between the safeguarded area and 120m at un-blighted market value. This would be opened to applicants in autumn 2014, following the further consultation described below.
- 2.3.3 Later this year we will introduce a Need to Sell Scheme, enabling the Government to buy, at un-blighted market value, owner-occupied properties whose owners have a compelling need to sell but are unable to do so because of our plans to build HS2. There would be no outer boundary to this scheme. This would be opened to applicants at the same time as the Voluntary Purchase Offer, and would succeed the current Exceptional Hardship Scheme for Phase One, which would be closed.
- 2.3.4 We will immediately launch a Rent-Back mechanism – a policy that means that if a property that the Government purchases under any of our schemes is suitable for letting, the previous owner can, if they wish, be considered for a Crown tenancy.
- 2.3.5 The Government has decided to rule out the implementation of a property bond for Phase One of HS2. Having carried out extensive work to investigate this option, including a detailed assessment by independent consultants PWC Ltd and a thorough review against our defined policy criteria, we have concluded that the introduction of a property bond scheme could not guarantee sufficient benefits to outweigh the risks of the scheme and the significant commitment of resources that it would warrant. Further details on the Government's conclusions can be found in chapter 8 of this document. We have decided that we will not proceed with a property bond in rural areas because it is not possible to be confident that a property bond would provide assurance to buyers of properties around the HS2 route.

2.3.6 HS2 is an exceptional scheme that would justify an exceptional support package. We consider that additional measures are necessary and we will consult separately on two supplementary cash payment schemes.

- For owner-occupiers in the Voluntary Purchase area, an alternative cash offer of 10% of the un-blighted market value of their property with a cap of £100,000 and a minimum payment of £30,000. This may help some people decide they do not need to move to protect the value of their investment in their home.
- A homeowner payment scheme to provide cash payments to eligible owner-occupiers between 120m and 300m from the centre of the line, following Royal Assent of the Phase One hybrid Bill, enabling residents to share early in the future economic benefits of the railway.

2.3.7 As part of this consultation, we will seek views on consequential changes to the Voluntary Purchase Offer and the Need to Sell Scheme, for example to enable any cash payments received to be reclaimed from homeowners who later choose to sell their homes to us under either of these schemes.

## 2.4 Why did we come to this decision?

2.4.1 Having considered the public response to consultation alongside the various benefits, potential risks and costs of the various schemes as against the policy criteria, we determined that the 'Property Bond Option' would not represent a satisfactory policy outcome either for property owner or the taxpayer. We also determined that though the alternative Voluntary Purchase Scheme would be preferable, more ought to be done to assist property owners with a wish to stay in their homes. We further considered that steps could be undertaken, outside of the context of property compensation, to spread the economic benefits of HS2 at an early stage.

2.4.2 Within the context of new proposals based upon sharing the economic benefits, we consider that it is appropriate to consult further on the interaction between the VPS and Need to Sell (NTS) and the new measures. Following consultation, it is our firm intention to implement the resulting measures at the earliest opportunity.

## 2.5 Safeguarding

2.5.1 On 9 July 2013, the Government issued safeguarding directions protecting land which it had been judged may be needed for construction or operation of Phase One of HS2. These safeguarding directions were reissued on 24 October 2013 to reflect the outcome of a consultation on Design Refinements to Phase One.

2.5.2 The primary purpose of safeguarding land for HS2 is to ensure that proposals for development which may conflict with HS2 are referred to HS2 Ltd to check that they won't interfere with construction or operation of the railway. However, one of the effects of safeguarding land is to trigger statutory blight provisions contained in the Town and Country Planning Act 1990<sup>4</sup>.

2.5.3 This means that eligible owner-occupiers of property within the safeguarded area are able to serve a Blight Notice on the Secretary of State requesting that their property be purchased by the Government. Also some of the proposed discretionary measures

<sup>4</sup> Part 6, Chapter 2 Town and Country Planning Act 1990 c.8

outlined in the September 2013 consultation document were also designed to operate within the safeguarded area, specifically Express Purchase and the Sale and Rent Back Scheme.

- 2.5.4 We have always been clear that from time to time we will review safeguarding directions to ensure that these continue accurately to reflect the land needed for the railway. This may have the effect of moving some properties in or out of the safeguarded area. As the design of the railway has been refined, it has become possible to identify to a greater degree of accuracy the land which will be required for construction or operation of Phase One of the railway.
- 2.5.5 We recognise that the changes to safeguarding directions or modifications to the route agreed during the passage of the hybrid Bill will have an effect on people if the eligibility of their property for statutory compensation or one of our discretionary schemes changes.
- 2.5.6 The Government will therefore communicate with individuals whose entitlement to the compensation measures are dependent upon the property falling within the safeguarded area and who may be affected by changes to the safeguarding directions or modifications to the line of route in a clear and timely manner. We have specifically addressed this issue within Express Purchase, as discussed in chapter 4 of this document in order to ensure that property owners are given a fair chance to reflect upon changes to safeguarding and how they may affect their eligibility for compensation.
- 2.5.7 When safeguarding directions are updated, new safeguarding maps will also be published.

## **2.6 The Phase One EHS**

- 2.6.1 The Exceptional Hardship Scheme (EHS) for Phase One of HS2 was always intended to be an interim measure to assist those property owners who have an urgent need to sell their home but have not been able to do so, except at a substantially reduced price, as a direct result of the announcement of the route for the railway.
- 2.6.2 The Phase One EHS will remain in place until the introduction of the Need to Sell Scheme later in 2014.

## 3 Our approach to discretionary compensation

### 3.1 Background and decision

3.1.1 In the 2013 consultation, the Government proposed to use five criteria to decide on the most appropriate long-term discretionary property compensation package for Phase One of HS2.

3.1.2 The proposed criteria were:

- Fairness;
- Value for money;
- Community cohesion;
- Feasibility, efficiency and comprehensibility; and
- Functioning of the housing market.

3.1.3 The consultation document highlighted that different compensation schemes or packages would likely compare differently against the criteria and that though the Government did not necessarily expect each scheme to perform well against each individual criterion, the final measures should each offer the best balance between criteria.

3.1.4 The Government has decided to retain the policy criteria as outlined in the consultation document and has therefore assessed the policy packages against the criteria as proposed. It remains the case that individual measures may not perform well against all criteria. However the Government has sought a package which in combination performs well against all criteria.

### 3.2 What you said and the Government's response

#### General comments

3.2.1 Some respondents made reference to the application of the criteria, noting their concern that the method for assessment of policies against the criteria was not outlined in the consultation document or that the subjective nature of the criteria in some way favoured the Government. Other comments asserted that the criteria were too vague or, conversely, that they were too complex.

3.2.2 We recognise that there will be a legitimate interest in how the criteria have been used, and any weightings which may have been applied to them. We would therefore like to be clear that no weightings were applied to the different criteria.

3.2.3 Many respondents said that the criteria were subjective and open to different interpretations. The Government considers that to some extent this is unavoidable because of the need to encompass the varying situations of individuals, a wide range of communities and distinct property markets. We do not consider that wholly objective criteria would materially assist or provide an optimal outcome with regard to property compensation. However, the proposed criteria do give a basis for considering options, and we have sought to clarify the Government's view of the individual criteria.

## Fairness

- 3.2.4 A large number of responses disagreed with the fairness criterion, with many negative responses focussing on specific issues of terminology or interpretation. For instance, some responses highlighted the phrase 'most directly and specifically affected' as used in the consultation document. A large number of responses also urged that the criterion be altered to mean that full compensation is provided to those who consider themselves affected by HS2.
- 3.2.5 In laying out the fairness criterion, the Government highlighted the importance of providing "a fair and reasonable settlement" for those most directly and specifically affected by proposals for HS2. We still believe that this is the only acceptable approach. This said, many of the concerns expressed through consultation responses are clearly the result of misinterpretation of the Government's intentions, which may be remedied through greater clarity in our communications.
- 3.2.6 The Government is committed to providing compensation to those who are most directly affected by HS2. In using the term 'most directly affected', the Government understands many property owners will currently feel as though they will be affected by HS2 due to lingering uncertainty or mistrust regarding the Government's intentions for the route, design, and construction timeline for the railway. Some such property owners, however, will not be directly affected by the proposals and will find that concerns regarding the effect of the railway on their property are only temporary, dissipating once there is greater certainty regarding construction and operation of HS2.
- 3.2.7 With this in mind, it is not reasonable to suggest that the Government provide the compensation packages proposed in the consultation to all individuals or communities who believe they have suffered as a result of HS2 simply because they have less confidence in the value of their properties.
- 3.2.8 Some responses suggested that noise, loss of view, or other specific impacts of the railway should be used in isolation to determine the provision of compensation. We have never said that we will fully compensate any person affected by HS2, and though we acknowledge that there were a number of different impacts, perceived or real, which might lead to a property's value being affected, to seek to base entitlement to compensation on one or two potential impacts would risk unfairly excluding properties that were equally affected but in a different way.
- 3.2.9 Similarly, it has been argued by some consultation respondents that the Government should simply compensate "all those who have suffered a loss due to HS2". We can see no way in which such a determination could be made since, unless a property is sold, the reduction in value does not lead to an actual financial loss. Moreover, it is necessary for the Government to balance the interests of those individuals who will receive compensation with the requirement to protect the interests of the taxpayer.
- 3.2.10 The Government has always been clear that we expect the effects of generalised blight around HS2 to be transitory. Experience from previous infrastructure projects tells us that once there is greater certainty around the plans, construction activity, and operational impacts of the infrastructure, blight begins to dissipate.

- 3.2.11 Both HS2 Ltd and the Government aim to continually improve and enhance the information available to the public regarding the final route and impacts of the railway, as well as working to reduce any adverse effects that it may have on property values.
- 3.2.12 Some respondents noted that the exceptional and long-term nature of HS2 ought to be taken into account within the fairness criterion, and the Government accepts this. We have consistently sought to produce a compensation package which reflects these elements of the HS2 project.
- 3.2.13 The Government intends to go beyond what is required in law in recognition of the exceptional nature of HS2 as is consistent with the fairness criterion we consulted upon. As noted above, we propose to consult on further measures, and decisions following such a consultation would be considered against the fairness criterion.

### Value for money

- 3.2.14 The value for money criterion drew a range of comments from respondents. Many comments touched upon the application of this criterion to other aspects of the HS2 project apart from property compensation or the means by which this criterion may be exercised by the Government or HS2 Ltd.
- 3.2.15 For clarity, it is important to note that this criterion in the property compensation consultation document referred specifically to the creation of new, long-term, property compensation measures.
- 3.2.16 Some respondents suggested that the Government may use this criterion as an excuse unfairly to limit compensation to individuals, or that the Government is already asking affected property owners to 'subsidise' the cost of HS2 by asking them to pay taxes toward compensation while having the value of their property diminished due to HS2 itself. Further, consultation responses also raised concern that the Government might seek to place some kind of cap on property compensation in order to keep the costs within a fixed budget.
- 3.2.17 The Government does not accept this argument. Though overall cost is a factor in analysis against value for money, the concept of value for money itself does not arbitrarily constrain the compensation available.
- 3.2.18 However, our discretionary property package will result in public funds being used to purchase property which is not needed in order to build or operate HS2. This process ties up substantial amounts of capital over an extended period of time and is unlikely to provide a net benefit to the taxpayer overall. It is therefore necessary for the Government to have regard to value for money when developing the schemes themselves.
- 3.2.19 Therefore due consideration has been given to the potential realistic cost outcomes of launching different packages of compensation measures.
- 3.2.20 Some respondents questioned the term "offer satisfactory value for money". This term is phrased to reflect that it will be necessary to make some form of judgment as to how any money spent will achieve its objectives. In the context of purchasing properties which are not needed for the railway and in doing so committing significant public funds over an extended time period, this judgment will rest largely on how public money can best be used to derive the maximum potential benefits for home

owners affected by HS2 while limiting the risk of disproportionate expense to the taxpayer.

### **Community cohesion**

- 3.2.21 Respondents generally appreciated the necessity of this criterion, observing in particular that the Government's proposals for renting properties bought under an HS2 compensation scheme back to their former owner would be one means of promoting community cohesion.
- 3.2.22 This said, respondents sometimes questioned the Government's past record of promoting community cohesion with regard to the HS2 project. In some instances, they asserted that the Government has failed to ensure that property owners have all the information they need in order to reassure them about the real effects HS2 will have on their property. Further, some respondents have argued that community cohesion has already been undermined by the project.
- 3.2.23 The Government and HS2 Ltd have consistently undertaken to provide as much information as possible on the expected impacts of the railway in order to mitigate public concerns. As the project has continued to develop, so too has our understanding of the likely effects it will have on local communities along the line of route. We remain committed to communicating such information as readily as possible.
- 3.2.24 Some respondents felt that more consideration ought to be given to mitigation of impacts caused by construction of HS2 as a means of supporting community cohesion. The Government and HS2 Ltd have carefully considered mitigation options and further details of the current construction plans are laid out in the Environmental Statement, published alongside the hybrid Bill for Phase One of HS2.
- 3.2.25 However, whatever mitigation measures are taken there will always be some effects from the construction and operation of a new high speed railway line and it is for that reason that the Government proposed a package of discretionary compensation measures for HS2 reflective of the nature of the project. Moreover, we now plan to consult on two supplementary payment schemes which could help support community cohesion.

### **Feasibility, efficiency and comprehensibility**

- 3.2.26 Respondents generally agree that clarity of intention and clear guidance are important for any of the new, discretionary property compensation schemes for HS2. This said, some respondents urged that the schemes should not be made overly simplistic and/or inflexible.
- 3.2.27 Some responses noted specific areas where the Government's proposals are unclear, whether in response to this criterion specifically or in response to the policy in question. In order to ensure clarity, efficiency and comprehensibility, the policy sections of this document include a greater level of detail on Government thinking than was contained in the consultation document. Further, detailed guidance notes are now available for reference by individuals interested in undertaking Express Purchase. These guidance notes can be found at: [www.hs2.org.uk](http://www.hs2.org.uk)
- 3.2.28 There were further suggestions regarding this policy criterion including transparency, good customer service, and the provision of additional information for affected

individuals. In terms of transparency and the provision of further information for affected individuals, the Government has attempted to set out as clearly as possible its intentions with regard to the outline of schemes. Detailed guidance notes will be published alongside any final scheme in order to assist prospective applicants.

### Functioning of the housing market

- 3.2.29 Though many respondents agreed with this criterion in principle, a number also noted that HS2 has already had an effect on the functioning of the housing market. The Government has already recognised this by going beyond statutory compensation and introducing the discretionary Exceptional Hardship Scheme (EHS) to assist property owners who are unable to sell their property, other than at a significant loss, due to proposals for HS2. Moreover, the Government has sought to address the issue of abnormal functioning of the housing market by proposing the compensation measures discussed here.
- 3.2.30 The consultation document stated that “the Government should enable local residential property markets to function as normally as possible”. Several respondents stated that the phrase “as normally as possible” was not clear enough, and that the Government should set itself a higher target. Given this response, we recognise that it may be necessary to explain further what we meant by this. It is unrealistic to expect the Government to be able to ensure that the market would operate entirely as it would otherwise have done in the absence of the railway proposals. The property market may not function entirely normally again until construction of HS2 has been completed owing to transitory fears about the potential impact of HS2. We are content, therefore, to aim to ensure the greatest possible level of normality in the functioning of the housing market and consider the proposed criterion to be appropriate.
- 3.2.31 Finally, some respondents commented on the name of the criterion, suggesting that it should be called “functioning of the property market” so that business properties are not excluded. As noted in the consultation document, the proposed measures were primarily aimed at residential owner-occupiers, though some small businesses will also qualify<sup>5</sup>. It is in recognition of this fact that this criterion focusses on the impact on the housing market specifically.

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<sup>5</sup> As defined in Part 6 Chapter 2 TCGA 1990 and includes provision for small businesses up to an annual rateable value (currently £34,800) and certain agricultural properties

## 4 Express Purchase

### 4.1 Background and decision

- 4.1.1 The Government consulted on a proposal to exercise its discretion in how statutory blight provisions will work for HS2 by accepting Blight Notices from eligible property owners:
- Without regard to whether the property would be needed for the construction or operation of the railway, provided the property is wholly within the safeguarded area; and
  - Without requiring the owner to demonstrate reasonable endeavours to sell their property.
- 4.1.2 This policy will be introduced immediately. An outline of how it will operate can be found below. Full details about the operation of Express Purchase can be found in the relevant guidance notes at: [www.hs2.org.uk](http://www.hs2.org.uk)
- 4.1.3 In instances where a Blight Notice has already been served and has been rejected by serving of a counter notice, perhaps because the provisions of Express Purchase were not at the time available, it is now possible to serve another Blight Notice, which would be processed in line with Express Purchase.
- 4.1.4 As outlined in the consultation document, Express Purchase will provide a means by which the Government may purchase properties not required for the construction or operation of HS2 but which are within the safeguarded area. It is important to note that Express Purchase will operate in surface safeguarding only and therefore will not apply in relation to properties located above, for example, bored tunnels. Measures specific to properties above tunnels can be found on [www.hs2.org.uk](http://www.hs2.org.uk).
- 4.1.5 Following the publication of the Higgins review HS2 Plus, the Government has also announced that it has decided not to proceed with the HS1-HS2 link and will seek to withdraw the safeguarding of this section of the route as soon as possible. Therefore Express Purchase will not be implemented for properties within the safeguarded area relating to the HS1-HS2 link. Those individuals affected by this decision will be contacted directly.
- 4.1.6 In terms of how the policy operates, it would be open to eligible property owners to serve a Blight Notice, asking the Secretary of State for Transport to purchase their property. Eligible properties wholly within the surface safeguarded area would automatically be accepted under Express Purchase, with those part in and part out of the safeguarded area assessed on a case by case basis as explained below. Those with a qualifying interest in a property accepted on Express Purchase terms would receive the same entitlement as could be expected were their property required for construction or operation of HS2 – namely:
- The un-blighted open market value of their property;

- subject to certain criteria, a home loss payment as allowed under statute (10% of the value of the property, subject to a current minimum payment of £4,700 and a current maximum of £47,000); and
- reasonable moving costs (such as expenses for removing possessions, surveyors' and legal fees and stamp duty on a new property of equivalent value).

4.1.7 It is important to understand that safeguarding directions (and the consequent safeguarded area) are a planning tool, designed to cover the land which may be needed for construction or operation of the proposed infrastructure. It is therefore not appropriate for the Government to use safeguarding to achieve objectives other than the protection of land for planning purposes.

4.1.8 For those in sub-surface safeguarding, it should be noted that the Government announced a series of measures applicable to properties above tunnelled sections of the route in November 2013. Further information on these measures can be found at: [www.hs2.org.uk](http://www.hs2.org.uk)

4.1.9 Further, the September 2013 consultation included a range of additional measures for properties outside the safeguarded area and the Government's responses to consultation on these policies are outlined elsewhere in this document.

### **Express Purchase and changes to safeguarding**

4.1.10 It was noted in the consultation document that the safeguarding area usually runs up to 60m either side of the HS2 line. However this is not a static boundary, nor is it consistent in distance from the railway. In urban areas, for instance, the safeguarded area is often narrower than 60m. Elsewhere, the safeguarded area frequently stretches beyond 60m from the line. It may also exist in isolated pockets away from the railway where land is needed for specific purposes such as the provision of utilities or other associated infrastructure. Furthermore, as discussed elsewhere in this document, safeguarding is subject to revision as it becomes clearer which land will be needed for HS2. These revisions will likely result in some properties moving in or out of the safeguarded area.

4.1.11 The Government recognises that those individuals whose homes are removed from safeguarding may have had a reasonable expectation for some time that Express Purchase would apply to them, and that they may also have made long-term plans accordingly. We have therefore decided that upon the issuing of updated safeguarding directions, where the route remains the same but the safeguarded area is revised, Express Purchase will continue to operate in those areas brought out of the safeguarded area for a 'sunset' period of six months. This should provide ample time for those individuals affected to consider their options. Though blight notices from outside the safeguarded area would ordinarily be countered, we will not do so during that period where a property is eligible for Express Purchase under the sunset principle.

4.1.12 The sunset period will not apply if we change safeguarding because we have decided to change the route or to put it into a bored tunnel.

## 4.2 What you said and the Government's response

4.2.1 A large number of responses to the consultation were positive with regard to proposals for Express Purchase. It was widely recognised that the proposals, if brought into effect, would lead to positive outcomes for many property owners. This said, some elements of the proposed policy generated questions among respondents.

### Properties part in and part out of the safeguarded area

4.2.2 In the consultation document we said that properties that lay partially within and partially outside the safeguarded area would be considered on a case-by-case basis. Respondents asked the Government to be transparent about how the case-by-case assessment would work. Some concern was also expressed regarding the issuing of counter-notices by Government. We can now set out the principles on which these actions will be undertaken.

4.2.3 Should the Government receive a valid Blight Notice relating to a property which is only partly within the safeguarded area, an assessment will be made as to whether any part of it is required for the construction or operation of the railway. This will determine which of two case-by-case analyses will take place. It should be noted that the tests for whether it is appropriate to take part of the property are different for commercial and agricultural properties.

- 1) If no part of the property is required, this does not necessarily mean that Express Purchase cannot take place. Rather, we will assess whether or not any part of the dwelling (generally the house) is within the safeguarded area. If this is the case, Express Purchase will be undertaken. If no part of the dwelling is within the safeguarded area, a final assessment will be made as to the total percentage of the hereditament (generally the house and garden) which is within the safeguarded area. Should more than 25% of the hereditament be within the safeguarded area, Express Purchase will apply.
- 2) If any part of the property is required for the railway a three-stage assessment will be applied.
  - a. Firstly, as with 1), an assessment will be made as to whether or not any part of the dwelling is within the safeguarded area and should any part of the dwelling be within the safeguarded area (even if that portion of the safeguarded property is not needed for the railway), Express Purchase will apply.
  - b. If no part of the dwelling is within the safeguarded area but more than 25% of the hereditament is within the safeguarded area, Express Purchase will also apply.
  - c. If 25% or less of the hereditament is within the safeguarded area, the application will be assessed using the principles of statutory blight. Under these principles an assessment would be undertaken in each case to identify whether the part proposed to be acquired can be taken without material detriment to the retained property. Further information regarding material detriment can be found at: <http://www.voa.gov.uk/corporate/Publications/Manuals/LandCompensationManual/sect15/f-lc-man-s15-pn1.html>

- 4.2.4 Through application of this case-by-case method, Express Purchase will generally apply to all properties eligible to serve a Blight Notice where more than 25% of the hereditament is within the safeguarded area. Furthermore, should any land be needed for construction or operation of the railway, an assessment would be made to determine whether that land take would cause material detriment (see comments above) and in all instances where in our opinion it would, Express Purchase would apply. Counter notices would therefore be limited to exceptional circumstances.

### Other comments

- 4.2.5 Many respondents expressed a desire for more information regarding specific aspects of the Express Purchase proposal, such as details about the qualifying criteria, the safeguarded area, the valuation process, home loss payments and timescales. It should be noted that through Express Purchase, the Government will use existing processes and procedures encapsulated within the statutory blight regime, waiving certain qualifying criteria in recognition of the exceptional nature of the HS2 project.
- 4.2.6 It has been noted that a small number of respondents felt that the Express Purchase proposal was little more than was required by statute. However, though the policy is based upon existing statutory provisions, the Government is committing through Express Purchase to buy property which is not required for construction or operation of HS2 and to relax the statutory requirement for individuals serving a Blight Notice to demonstrate efforts to sell the property.
- 4.2.7 Moreover, even in instances where the property is not needed, under Express Purchase the Government will buy the property under the same terms as it would if it were needed for the railway. This approach goes beyond what would be normal for an infrastructure project and is a clear representation of the Government's commitment to providing fair compensation for individuals directly affected by HS2.
- 4.2.8 With regard to the 'home loss payment' also, some respondents suggested that the payment ought to be larger. This payment<sup>6</sup> is a long-established means of compensating individuals for losing their home, and the nature of HS2 is no different in this regard than any other infrastructure project which requires specific parcels of land. We do not, therefore, accept that the payment should be altered and will, under Express Purchase, operate within the parameters of the Compensation Code.
- 4.2.9 Similarly, a number of respondents highlighted the boundaries of the safeguarded area as being unduly restrictive or not representative of local topography or property markets, suggesting that the Government should broaden eligibility for Express Purchase to a wider area, for example to reflect the impact of local topography; to cover a wider fixed boundary such as 120m from the railway; or to include properties above tunnels.
- 4.2.10 In terms of eligibility also, some respondents complained that Express Purchase would not assist all of the individuals affected by HS2. Conversely, some stated that by proposing to relax certain of the Blight Notice criteria through Express Purchase the Government was accepting "the true extent of HS2's blight on properties". Express Purchase is not designed as a 'cover-all' approach, but is one of a package of different measures proposed in order to assist those property owners directly affected by the

<sup>6</sup> See sections 29-33 Land Compensation Act 1973

HS2 scheme. These measures were designed to apply to diverse circumstances, with Express Purchase applicable to those properties affected by statutory, rather than generalised, blight. Again, we propose to consult on measures which go even further, with more details on the proposals outlined above.

- 4.2.11 A further, specific, concern which was raised through the consultation is that of the eligibility of certain property types. For instance, it was noted that the Express Purchase proposal only applied to owner-occupiers and did not extend to second homes, rental properties or large businesses. The consultation document noted that all of the additional measures (including Express Purchase) were designed to assist owner-occupiers of property, however we recognise that we could have been clearer in terms of definition. By owner-occupier, we refer to those defined as owner-occupiers for the purposes of statutory blight as set out in Chapter 2, Part 6 of the Town and Country Planning Act 1990.
- 4.2.12 We do not intend to alter the established property type eligibility criteria in the statutory blight regime and which would equally apply to Express Purchase. We are satisfied that it is appropriate for the Government to use a definition of 'owner-occupier' that is consistent with the statutory compensation regime.
- 4.2.13 Similarly, some respondents felt that Express Purchase should be applied to properties located above deep bored tunnelled sections of the route. As the construction and operation of HS2 is not expected to directly affect properties above tunnels, the Government does not accept that it is appropriate to apply Express Purchase to such properties.
- 4.2.14 Finally, respondents frequently commented on the valuation method for properties accepted under Express Purchase. Many favoured the payment of 100% of the un-blighted value of the property. However some sought greater clarity over the valuation process. It was suggested, for instance, that independent valuers be used to mitigate the concerns of property owners. Others suggested that local estate agents should be used to ascertain values. The Government will employ independent valuers with knowledge of the local area for this purpose, and though they will be paid by the Government, they will work to the independent RICS 'Red Book' valuation standards.

### Summary of this section

- 4.2.15 In response to the consultation, we have decided to introduce an Express Purchase Scheme with immediate effect. We have made some changes from the proposal that we consulted on:
- We have given some more detail about how we would operate the scheme and have issued detailed guidance; and
  - We have given the detailed explanation requested about how we would treat properties that were part in and part out of the safeguarded area.
- 4.2.16 We have also explained why properties along the HS1-HS2 link are not eligible for Express Purchase.

## 5 Long-term hardship scheme (LTHS)

### 5.1 Background and decision

- 5.1.1 The Government consulted on proposals for a Long Term Hardship Scheme (LTHS) for Phase One of HS2 to assist owner-occupiers outside the safeguarded area and the rural support zone who will suffer hardship if they are unable to sell their homes but are not eligible for the other schemes operating with regard to HS2.
- 5.1.2 The proposed LTHS would have required property owners to apply to the Government to purchase their home, providing evidence against the following criteria:
1. Property type;
  2. Location of property;
  3. Effort to sell;
  4. No prior knowledge; and
  5. Hardship.
- 5.1.3 Assessment of applications was to be undertaken by a majority independent panel, who would make a recommendation to a senior civil servant 'decision maker' and all successful applicants would have their property purchased by the Government for 100% of its un-blighted open market value.
- 5.1.4 The Government has always been committed to assisting those individuals directly and adversely affected by HS2. Having taken account of the consultation responses, we have decided to implement an improved version of this scheme, to be known as the Need to sell scheme (NTS). The scheme is outlined briefly below and a summary of the key changes between the LTHS and NTS can be found briefly below. The scheme will be described fully in guidance when it comes into effect.

### 5.2 Need to sell scheme (NTS)

- 5.2.1 The NTS will assist owner-occupiers who have a compelling reason to sell their property but are unable to do so other than at a significant loss due to HS2. The scheme would also be open to owner-occupiers who have a compelling reason to sell now in order to avoid a situation of unreasonable burden in the near future.
- 5.2.2 The NTS has been developed in response to the feedback on the LTHS we received through the consultation process. As with the LTHS, applicants would be asked to demonstrate that they met five criteria. Furthermore, in recognition of concerns raised by respondents regarding the assessment of applications and the valuation process, several changes would be made to the operation of the scheme compared with that proposed in the September 2013 consultation document.

### 5.3 What you said and the Government's response

- 5.3.1 A number of themes emerged from the consultation responses including: eligibility and the scheme criteria; operation of the scheme including review of applications and valuation of properties; and the amount of compensation payable to successful applicants.

5.3.2 Several responses also advocated a property bond in place of the LTHS. A full discussion of the property bond option for HS2 can be found in chapter 8 of this document, including the reasons why it would be necessary to incorporate a defined outer boundary into a property bond scheme. The Government firmly believes that whatever scheme is implemented within a geographically defined area, further measures should be available without geographical limit to property owners who can make a case for the Government to purchase their property owing to HS2.

5.3.3 This should be a flexible and broad based assessment to ensure that those who have a legitimate need are helped.

### Criteria

5.3.4 General comments on the scheme criteria often focussed around how restrictive they would be. Some suggested that the Government was intentionally trying to limit the number of successful applicants and that cost limitation may have been the motive for this.

5.3.5 The Long Term Hardship Scheme was proposed in recognition of the unique nature of HS2, including the long timescales involved in completing such a project. It has never been the intention of the Government to withhold assistance from those in real need. In contrast, we have gone beyond what is required in law and proposed a number of discretionary measures for property owners. The LTHS criteria were designed in order to enable the Government to identify those individuals in need of assistance because of the effect HS2 would have their property.

5.3.6 Some respondents asserted that the criteria used should be based upon specific factors such as blight or nuisance. Such an approach would be hard to accurately calculate and might act against applicants' interest as more restrictive definitions of the circumstances which warrant assistance could only serve to limit a panel's ability to accept cases on the basis of need.

5.3.7 **Criterion 1 (property type)** generated a number of comments which largely focussed on extending eligibility beyond owner-occupiers. It was suggested, for instance, that second homes, businesses, and rental properties be included. As the September 2013 consultation document sets out, the proposed compensation schemes were intended – in the main – to reflect the unique nature of home ownership. It remains the Government's view that this should remain the underlying principle of discretionary schemes for HS2.

5.3.8 Some responses, however, raised the issue of 'reluctant landlords'. We accept that such individuals should be catered for through the Government's discretionary measures and so propose to recognise reluctant landlords in the Need to Sell scheme alongside owner-occupier as defined in Part 6, Chapter 2 of the Town and Country Planning Act 1990 (TCPA 1990). Such individuals will be expected to demonstrate that they had a compelling reason to sell at the time they moved out of the property, and to outline why such a move could provide only temporary relief from the unreasonable burden. It would be anticipated that reluctant landlords would own only one home – that which they had been forced to let – and it would be expected that such individuals had not become owner-occupiers of a separate property following the letting of their home.

- 5.3.9 It should be noted that the definition of an owner-occupier under TCPA 1990 includes provision for small businesses up to an annual rateable value (currently £34,800) and certain agricultural properties. We hope that this clarification will address the concerns expressed by some respondents, particularly in relation to small businesses, that the scheme would not apply to these property types.
- 5.3.10 **Criterion 2 (location of property)** also drew many comments from respondents, many supportive of the proposal to employ no fixed outer boundary for eligibility to the scheme, though some questioned why fixed boundaries were acceptable for some schemes but not others. The Government did not consult on a fixed outer boundary for the LTHS as this scheme involved case-by-case review of individual applications, including the circumstances of the applicant and their property. Therefore no boundary is needed.
- 5.3.11 The Government will relax one element of Criterion 2, removing the exclusion of applicants whose property is located in an area under which other HS2 schemes are available. This more flexible approach would ensure that individuals not covered by other schemes (such as reluctant landlords) would be able to make a case for Government assistance.
- 5.3.12 **Criterion 3 (effort to sell)** generated a number of specific comments and suggestions from respondents and having reflected upon these comments, we will revise and clarify some aspects of this criterion.
- 5.3.13 The proposals outlined an expectation that applicants market their property for a period of six months in advance of making their application. This was a reduction from the 12 month marketing period proposed in a consultation on the same scheme in 2012. Respondents broadly favoured a reduction in the marketing period, some making specific reference to the Exceptional Hardship Scheme (EHS) for Phase One of HS2 which has been in operation since August 2010 and requires only a three month marketing period.
- 5.3.14 Taking account of respondents' comments and reflecting on the experience of the EHS, we accept that it would be appropriate to further reduce the required marketing period to three months.
- 5.3.15 Another issue raised in relation to the effort to sell criterion was the ability to demonstrate such an effort has been made when estate agents may be reluctant to market a property perceived as blighted and prospective buyers are not compelled to give a reason as to why they did not make an offer on the property.
- 5.3.16 We acknowledge these concerns and must emphasise that it is not the Government's role to determine estate agents' approach to property which may be affected by our proposals for HS2. This said, evidence provided in a Need to Sell application about an applicant's attempts to actively market their property would be carefully considered, including evidence that a number of local agents had refused to market the property due to HS2.
- 5.3.17 We use the term 'recognised estate agent' to mean an estate agent with experience marketing properties in the local area, advertising through a variety of media. Such an estate agent will have experience marketing similar properties in the local area. Estate

agents that do not have a physical presence in the local area should, for example, advertise, speak to potential viewers, collect feedback, provide a for-sale board, a floor plan or take professional photographs would also be accepted as recognised estate agents.

- 5.3.18 Given the variety of options available to sellers today for marketing their property, we accept that this criterion ought to recognise that 'self-marketing' may form part of an applicant's efforts to sell their property. However, it is unlikely that this sort of self-marketing approach alone would be able to provide the same level and quality of evidence as a recognised estate agent.
- 5.3.19 The proposals for criterion 3 included an expectation that applicants would accept offers within 15% of the marketing price of the property during the marketing period in order to take account of normal property market behaviour. Some respondents, however, felt that they should not have to accept any offer lower than the marketing price, while others suggested different percentages (largely between 7.5% and 12%). It was also suggested that a different means may be undertaken to ensure reasonable offers were accepted at the marketing stage. For instance, it was suggested that the Government pre-value properties before the marketing period in order to incentivise the vendor to achieve the best price possible.
- 5.3.20 We know that buyers and sellers often agree a price that is lower than the asking price. Therefore we expect applicants to demonstrate that nobody in the open market was prepared to pay a price that the seller would normally have accepted. Our test for this under criterion 3 is to ask applicants to demonstrate that nobody has made an offer for that property that is within 15% of the realistic un-blighted asking price.
- 5.3.21 Though we note that a number of consultation respondents expressed concern about this, it is a long standing approach used by other compensation schemes, for example by Channel Tunnel Rail Link, Crossrail and by the Highways Agency on road schemes, and we believe it to be fair and reasonable. In proposing this approach we did not intend to dictate the price that private individuals should accept in a private sale. If a single low offer has been received, this may be evidence of a cynical buyer rather than a failure to market the property sufficiently energetically. The Government also acknowledges that the existence of such an offer in the past is no indication that a serious offer will be made in the future.
- 5.3.22 Refusal of a low offer does not necessarily mean that the panel will automatically reject an application. Panel members would be expected to use their discretion to determine the merits of an applicant's case. We will give more information about this in the scheme guidance.
- 5.3.23 **Criterion 4 (no prior knowledge)** received fewer comments from respondents though those comments which were received tended to focus on two specific issues.
- 5.3.24 Firstly, some respondents expressed concern that by expecting applicants to have bought their property before the initial preferred route for Phase One of HS2 was announced on 11 March 2010 the Government was unfairly ignoring subsequent route amendments.
- 5.3.25 As noted in the September 2013 consultation document, the Government proposed to take account of such route amendments during the review of applications, using

the inherent flexibility of the scheme to ensure applicants are treated fairly. We will explain more about this in the scheme guidance that we will issue when the scheme is implemented.

- 5.3.26 Second, it was suggested that potential buyers would be discouraged by this criterion. The Government does not consider it reasonable, however, to underwrite the value of properties purchased by individuals who have full knowledge of HS2. Government cannot be expected to purchase properties on the basis that they cannot be sold for an un-blighted value due to HS2 if the property owners themselves had knowledge of the source of the project.
- 5.3.27 **Criterion 5 (hardship)** generated a very strong response from the public during consultation, and the Government has amended the criterion with the intention of allaying, where possible, public concerns. Though it is not reasonable to expect the Government to intervene in the property market by buying properties without a compelling reason, the Government's aim in proposing a hardship criterion has been frequently misunderstood.
- 5.3.28 We recognise that we should clarify our intentions in order to ensure that eligible property owners would not be discouraged from applying to such a scheme due to a misperception of what we mean by 'hardship'. Respondents' comments frequently suggested that the hardship criterion was indicative of a system of 'means-testing' applicants or that only financial hardship would be considered valid. In looking at consultation responses it was of great concern to the Government that individuals in challenging circumstances would have been put off from applying to the scheme because they did not feel that their circumstances warranted the label 'hardship'. Further, some responses suggested that as 'hardship' was not defined with reference to specific circumstances through a strict definition, it may be misapplied by panel members to the detriment of applicants.
- 5.3.29 It is due to these comments that we will change the hardship criterion to 'Compelling reason to sell', a title which more accurately reflects the purpose of the criterion, which is to ask that applicants demonstrate that they need to sell their property and that the Government therefore ought to assist the individual directly. Therefore the scheme name will be changed from 'Long-term hardship' to 'Need to sell'.
- 5.3.30 With this in mind, we have also considered whether or not to provide a list of specific circumstances which demonstrate a 'compelling reason to sell'. While superficially attractive, we would not want such a list to become a hard-edged set of inflexible rules. It is not possible to specify all the circumstances in which householders might find themselves, and it is important that a panel considering any individual request is free to consider the merits of the case put to them.
- 5.3.31 To provide some clarity of the Government's broad intent with this criterion, we would like to indicate at this point some of the scenarios where we consider applicants could make a strong case that they have a 'compelling reason to sell'. These scenarios include:
- unemployment;
  - relocation for a new job;
  - dividing assets as part of a divorce settlement;

- ill-health; and
- the need to release capital for retirement.

5.3.32 Though this is not an extensive list, in producing it here we aim to illustrate the extent to which a variety of different circumstances will be considered under this scheme.

### **Operation and valuation**

- 5.3.33 The September 2013 consultation document outlined in detail the process for assessment of applications to the Long Term Hardship Scheme. Respondents expressed mixed feelings about the operation of the proposed scheme and some common themes emerged upon consideration of the consultation responses. Independence and transparency were raised on numerous occasions with reference to decision making. Likewise, the information and expertise available to panel members and applicants alike was frequently touched upon. Finally, the method of valuation and amount of compensation paid by Government were areas of key interest for respondents.
- 5.3.34 In terms of independence and transparency, a number of suggestions were made as to how the scheme's operation could be improved. Respondents were keen to increase the independence of the decision-making process by limiting or removing HS2 Ltd and Department for Transport (DfT) representatives from the process. Furthermore, it was noted that in order to provide reassurance to applicants about the fairness of the scheme, transparency should be ensured throughout.
- 5.3.35 These issues are clearly of great importance to respondents, and we believe that it is imperative for Government to provide as much reassurance as practical regarding our intentions for the fairness of the scheme.
- 5.3.36 As for all the purchase schemes undertaken in relation to HS2, we always intended for valuations to be carried out by qualified individuals with local knowledge and in accordance with high standards of professionalism. Moreover, it was our intention that they be Royal Institution of Chartered Surveyors (RICS) registered and abide by RICS 'Red Book' principles.
- 5.3.37 After reflection, we accept that the panel set up to assess applications should not, as proposed in the consultation, include one member of HS2 Ltd staff. Rather we will use a fully independent panel of three lay-people. Though it has been noted that a number of respondents wished HS2 Ltd and DfT to be removed entirely from the decision-making process, we do not consider that this would be a practical or acceptable step.
- 5.3.38 It is essential that DfT have oversight over the operation of this scheme, ensuring that it is functioning fairly and consistently in line with its purpose. As an entirely discretionary scheme introduced at the request of the Secretary of State for Transport, it is the Department's responsibility to see that it operates as intended. A senior civil servant will therefore consider all panel recommendations as laid out in the consultation proposals.
- 5.3.39 Consultation responses also highlighted that in order to provide greater transparency, it would be desirable for the Government to publish its guidance notes for panel members. We consider that this is a reasonable request and will publish these in the future.

- 5.3.40 Many respondents also felt that more specialist expertise was needed in the panel. We do not, however, think that this is necessary. As discussed in the September 2013 consultation document, it would not be possible to ensure that experts in relevant fields for each application were available at all panel meetings and it would therefore not be fair to introduce experts in certain, selected, fields and not others.
- 5.3.41 Conversely, some respondents highlighted concerns around the amount of information and expertise available to applicants. Some questioned whether an independent advisory service would be provided, while others asserted that applicants may be disadvantaged due to their inability to themselves pay for independent professional advice.
- 5.3.42 It should be noted that while applicants would not be prevented from seeking professional advice, the application process has been designed in such a way so that applicants should not ordinarily need to do so.
- 5.3.43 On a separate theme, several respondents expressed a desire for the scheme to enable personal representation to panel meetings and to facilitate site visits to applicants' properties. We do not consider that, ordinarily, there would be sufficient benefit in enabling personal representations to the panel meeting or undertaking site visits to warrant the additional time that this would require. Such a process would introduce an unwarranted delay in the processing of applications and would not yield any further information than it would be possible to provide through a written application.
- 5.3.44 This said, we recognise that in certain, limited, circumstances it may be appropriate for a panel to request a site visit or personal representation in order to ensure fairness and equality within the application process. Panel members will be empowered to agree, where exceptional circumstances apply and a request has been made, a site visit or personal representations from the applicants.
- 5.3.45 It was also suggested that an appeals process be introduced, allowing applicants to challenge the outcome of an application. Having considered this point in detail, we believe that providing unsuccessful applicants the opportunity to re-apply to the scheme is the fairest means of ensuring that they could present their case at its best. As explained in the consultation document, this process will enable applicants to submit additional evidence to support those areas of their original application which were noted by the panel as insufficient to warrant acceptance under the scheme.
- 5.3.46 We do, though, agree with those respondents who requested that detailed feedback ought to be provided to unsuccessful applicants in order to enable them to better prepare a re-application should they wish to do so. Furthermore, we will design a comprehensive procedure for investigating and resolving complaints pertaining to the processing of applications, ensuring that should applicants have reason to believe that their application was processed incorrectly to the detriment of the decision, it is possible to swiftly undertake the necessary corrective action.
- 5.3.47 Finally, valuations and the level of compensation paid by Government were commented on by several respondents. The importance of independent valuations was stressed by some, while others suggested that the applicant themselves should appoint (and perhaps pay for) the valuations. Further, some applicants argued that successful applicants should receive 100% of the property's value while others sought

additional payments to compensate for the loss of the property or moving costs as under Express Purchase.

5.3.48 As proposed in the consultation document, properties purchased under this scheme would be bought at their full un-blighted open market value. Though we appreciate that some respondents felt estate agents would be best placed to assess the value of an applicant's property, we maintain that they would be best placed to assess its marketing price for the purposes of demonstrating an 'effort to sell' while a qualified chartered surveyor would be best placed to assess its value for the purposes of purchase. As noted previously, it is commonplace for an estate agent to recommend that a property be marketed at an asking price which is in excess of the value it is expected to achieve in the market, just as it is commonplace for the vendor to accept an offer below the marketing price.

5.3.49 With regard to further compensation payments to successful applicants, the Government does not accept that it is reasonable for the taxpayer to provide thousands of pounds of additional payments in line with those available under statutory compensation. The NTS facilitates the sale of properties by individuals who would have had a need to sell their property regardless of HS2. Payments would therefore be limited to 100% of the property's un-blighted open market value.

### **Summary of this section**

5.3.50 We will introduce a Need to Sell scheme later in 2014, following consultation on two supplementary cash payment schemes which may require consequential modifications to the Need to Sell scheme.

## 6 Sale and rent-back

### 6.1 Background and decision

- 6.1.1 The Government consulted on two different approaches to the rental of properties purchased in relation to HS2 back to their former owner:
- The sale and rent back scheme – A scheme applicable to those eligible to serve a Blight Notice and whose homes need to be demolished to build and operate the railway. This scheme would employ a bespoke form of tenancy and would involve the undertaking of a value for money test by the Government.
  - An alternative approach to sale and rent back – An approach under which the principle would apply to all homes purchased by Government through an HS2 property purchase scheme. This approach would rely on standard assured shorthold tenancies and would involve the undertaking of a value for money test by the Government.
- 6.1.2 Following consideration of the consultation responses, we have decided to implement a hybrid approach to sale and rent-back using the principles of our 'alternative approach to sale and rent-back' while utilising Crown tenancy agreements. This approach will be referred to as 'Rent-back'.
- 6.1.3 Rent-back will be implemented as an approach to the management of the Government's estate rather than a specific scheme. Through the application of this approach, those individuals whose properties are purchased in relation to HS2 under statutory measures or any discretionary scheme would be able to ask the Government to allow them to rent back the property following its sale.
- 6.1.4 In practice, property owners in the process of selling their property to the Government as a result of Phase One of HS2 would ask the HS2 acquisition manager to note their interest in renting the property from the Government. This would trigger a process of assessment under which a determination would be made as to whether or not the property in question could be made suitable for letting in accordance with legal requirements, and in line with sound commercial principles.
- 6.1.5 Should the property be suitable for letting, a calculation would be made of the realistic market rent which the property would be likely to fetch. The vendor would then be offered the opportunity to enter into a tenancy agreement subject to a satisfactory credit referencing check. It is up to individuals to judge whether or not they are prepared to agree to the tenancy agreement including the payment of full market rent.
- 6.1.6 Further details of the process involved in undertaking sale and rent-back are included at Annexes A and B of this document. A detailed review of the main consultation themes (and the Government's response) follows at section 6.2 below.

#### Use of Crown Tenancies

- 6.1.7 The Government is currently restricted in its use of residential tenancy agreements and must issue Crown rather than assured shorthold tenancies (ASTs). We overlooked this point when we began this consultation. A consultation has taken place elsewhere in Government about revising the rules around Government tenancy agreements but

no decision has yet been made to enable the use of assured shorthold tenancies by Government bodies.

- 6.1.8 Where a tenancy is issued by the Secretary of State, we will therefore use Crown tenancies. In practice, the form of Crown tenancy we propose to use is very similar to an assured shorthold tenancy.

## 6.2 What you said and the Government's response

- 6.2.1 Responses to the consultation clearly demonstrated an element of confusion regarding the differences between the two proposed sale and rent-back options. Nevertheless, the benefits of sale and rent-back were highlighted by many and a clear preference was noted for the 'alternative approach' over the 'sale and rent-back scheme'.
- 6.2.2 Several respondents requested more information regarding tenancy arrangements, rent levels and the operation of a value for money test. Others suggested that an independent panel administer the scheme rather than HS2 Ltd. As it is now possible to set out detailed information about the operation of Rent-back, we have done so in this section of the document as well as at Annexes A and B. By providing this information, we intend to allay fears that an unfair process will be used to determine whether Rent-back will be possible.
- 6.2.3 Some respondents expressed concerns regarding the proposals for sale and rent-back, indicating that this may inconvenience the property owner and have an adverse impact on their ability to purchase new accommodation. It must be stressed that sale and rent-back would be an approach to the management of the Government's estate and no individual would be forced to agree to rent back their property from the Government. Further, some responses outlined concerns surrounding security of tenure, and the ability of a tenant to remain in the property until it is convenient for them to leave. Essentially, this approach allows individuals, should they wish to, to ask the Government whether they can let back their property temporarily after its sale under a standard tenancy agreement. At the point of sale to the Government, property owners may request further details of their options under Rent-back from their acquisition manager.
- 6.2.4 Understandably, some respondents questioned whether this approach would benefit a large number of affected property owners. This approach is intended to offer additional options to property owners selling their property to the Government under one of its purchase schemes. Though we fully appreciate that not all eligible individuals would be attracted to this approach, this policy ensures that they are not automatically debarred from doing so.
- 6.2.5 Some respondents questioned the costs of implementing this scheme, both for the Government and for eligible members of the public. Under this approach, however, the Government will conduct a value for money test (see Annex A for further information) ensuring that taxpayers' interests are protected in a manner consistent with standard commercial principles.
- 6.2.6 As noted by some who responded to the consultation, certain properties, such as listed properties, may not as readily prove viable for letting, for instance due to the cost of implementing improvements to bring the property up to the required standard should that be necessary. The Government does not dispute that this may be the case,

however the application of a value for money test will ensure that a fair and consistent approach is taken to all relevant properties, regardless of their specific circumstances. Some consultation responses requested further clarity over who would be responsible for undertaking and paying for property repairs. As would be the case with any tenancy, the property owner (i.e. HS2 Ltd) would be responsible for bringing the property up to a lettable standard and undertaking and paying for all further repairs to the property, save where the repairs are due to the tenant's breach of the lease requirements or the tenant's negligence.

- 6.2.7 For the individual seeking to rent back their former home, again, normal commercial principles will apply. Some individuals will not be able to, or will not wish to, pay full market rent for the property in question. Similarly, they may find that the Rent-back arrangement would not be convenient or otherwise suited to their situation. Under such circumstances, the Government would rely on a normal management strategy for the property in question.
- 6.2.8 Though some respondents expressed a strong preference for rent levels to be kept artificially low or not charged at all, for rent to reflect a tenant's former mortgage payments, or for the Government to waive its rent requirements by way of compensation, this does not represent a sound approach to property management. Not only would this approach have a significant negative effect on the public purse, it would also likely have a strong adverse effect on the local private sector property market. The use of normal market rent levels is therefore the fairest means of balancing the interests of taxpayers, local communities, and potential tenants. This approach is not, as some respondents suggested, driven by profit motivations, but is a balanced 'common sense' approach to managing the interests of taxpayers, the Government, and property owners directly affected by HS2.
- 6.2.9 A number of respondents suggested that individuals may wish to stay in their home regardless of whether or not it meets 'letting standards'. Though this is understandable, it would not be possible or acceptable for the Government to allow individuals to rent properties from its estate without them meeting standards which are laid out in law. Such standards are in place to ensure the safety and quality of life of tenants.
- 6.2.10 Similarly, some concerns were raised that emotional consequences may arise as a result of individuals moving from home ownership to becoming tenants. Examples were also given of specific groups, such as the elderly, who may be particularly vulnerable to such occurrences. Given that the Government is simply providing greater flexibility to individuals who are already selling their property we firmly believe that such concerns should not prove founded with regard to renting back of properties per se. Under the Compensation Code, emotional distress is already compensated for with additional financial allowances for those individuals moved from their home. In instances where the property is not required, individuals would not be eligible for such payments and would have chosen to leave it. Through Express Purchase, the Government has chosen to extend the payments to those individuals whose property is so close to the new railway as to be within the safeguarded area. However, subject to further consultation on measures which go beyond the safeguarded area, we do not believe it is justifiable to extend such payments beyond this group.

- 6.2.11 Many consultation respondents expressed the view that sale and rent-back would not address blight. This assertion may be true as the scheme is not primarily designed for this purpose. As several respondents noted, sale and rent-back has been shaped in such a way that it should benefit both home owners and the wider community. In the first instance, it gives eligible property owners greater flexibility. On the other, it enables them to remain in a property for longer, therefore reducing the number of vacant properties and facilitating community cohesion.
- 6.2.12 A number of consultation responses questioned eligibility for Rent-back more generally. For instance, some stated that rental properties, second homes, farms and business premises should be eligible for rent-back. Further, some responses asserted that specific geographic locations would not be eligible, such as urban areas.
- 6.2.13 Finally, the issue of re-purchase or application of the Crichel Down Rules was raised through some consultation responses. Although the Crichel Down Rules will be applied in line with existing arrangements, they will not be applied more widely, or in relation to discretionary purchase schemes (other than Express Purchase) as they apply only to land bought by, or under the threat of, compulsory purchase. Further, the Government does not plan to operate a formal buy-back system for properties which have been let back to their former owner through sale and rent back.

### **Summary of this section**

- 6.2.14 We have decided to implement a hybrid approach to sale and rent-back which we will refer to as 'Rent-back'.

# 7 Voluntary purchase scheme

## 7.1 Background and decision

- 7.1.1 The Government also consulted on proposals to establish a 'Rural Support Zone' (RSZ) outside the safeguarded area within which either a Voluntary Purchase Scheme or a Property Bond Scheme would operate. This chapter discusses the Voluntary Purchase option only, with the Property Bond Scheme discussed in chapter 8 of this document.
- 7.1.2 The proposed voluntary purchase scheme option (VPS) would enable eligible owner-occupiers of properties within the RSZ to ask the Government to purchase their property. As under the statutory blight regime, eligible owner-occupiers were defined as those with a qualifying interest under section 149 of the Town and Country Planning Act 1990. This definition includes residential owner-occupiers, owner-occupiers of small businesses (currently up to an annual rateable value of £34,800), and owner-occupiers of agricultural units.
- 7.1.3 Under the proposed scheme, the Government would pay 100% of the un-blighted open-market value of the property as assessed by two independent valuers. No additional compensation payments would be made as, unlike those in the safeguarded area, the properties are not needed for the construction or operation of the railway.
- 7.1.4 It was also proposed that the Rural Support Zone would have an outer boundary regardless of whether the VPS or Property Bond Scheme were adopted. The Government proposed a 120m boundary either side of the railway for the RSZ should a voluntary purchase scheme be introduced.
- 7.1.5 The Government will implement a Voluntary Purchase Scheme to allow owner-occupiers living outside the safeguarded area but within 120m of the line to sell their property to the Government for its full un-blighted value – i.e. the value as if no railway was proposed. However, while we are content to buy all of these properties, we recognise that we do not want people to feel that they need to sell their properties. Therefore, for people in this area, we also propose to consult on an alternative to selling their house to the Government the option of a cash payment of 10% of the value of their property, tax free, with a minimum of £30,000 and a maximum of £100,000. We will need to consult on this alternative approach later this year. We will implement voluntary purchase after that consultation.

## 7.2 No prior knowledge

- 7.2.1 We have reflected that we had omitted to include any reference in our proposals for Voluntary Purchase to a requirement that people would not be eligible if they were not owner-occupiers of the property when the initial preferred route, or the route as it currently relevant to their property, was announced. We will say more about this in scheme guidance.

## 7.3 What you said and the Government's response

- 7.3.1 Consultation responses covered a range of issues in relation to the proposed Voluntary Purchase Scheme option and it was clear that this option was popular with respondents, although with some caveats attached.

- 7.3.2 The application of a rural support zone within which either the voluntary purchase or property bond options would operate generated a number of comments and questions, and in many cases these must be addressed separately in relation to the different options.
- 7.3.3 In principle, there was support for a Rural Support Zone, including agreement with the Government's assertion that rural areas will more readily feel the impacts of HS2 than urban areas. It was also noted that a specified zone within which applicants would qualify for additional support would provide a level of additional support to those within the zone. This said, many respondents also disagreed with the application of a defined rural support zone on grounds that its outer boundary would be arbitrary, or that it would discriminate against properties in urban or suburban areas.
- 7.3.4 In the context of a VPS, the Government considers that it is essential to identify a defined area within which the scheme would operate. It is not reasonable to expect the Government to open such a scheme to an unlimited distance from the railway, leaving the public purse open to an unlimited liability to purchase property. The scheme we consulted on was designed to assist those most directly affected by Phase One of HS2, and we continue to believe that it is necessary to implement a boundary which will balance the burden on the taxpayer with the Government's intention to go beyond what is required by law.
- 7.3.5 During construction of HS1 a boundary of 120m was also applied along parts of the route, enabling similar (though not identical) discretionary measures either side of the centre of the railway line. In considering whether to have a wider boundary, the Government must balance the perception of increased fairness against the risk of having to buy large numbers of properties, which raises costs and also affects communities. The Government judges 120m to be an appropriate boundary, reaching to a distance roughly twice as far as the area that has been safeguarded, and will therefore apply the same boundary to HS2.
- 7.3.6 For some respondents, the differentiation between urban and rural areas in the availability of a Voluntary Purchase scheme was considered to be unfair. In some instances specific locations were identified as being of rural character despite being located in an area deemed 'urban' for the purposes of the proposed RSZ. We have specifically reconsidered boundaries in relation to a Voluntary Purchase Scheme and maintain that owing to the differential in impact between rural and urban areas it would be inappropriate and unnecessary to introduce this scheme in an urban area.
- 7.3.7 Rural areas suffer more significant generalised property blight due to a combination of factors. By their nature, rural areas are comparatively tranquil and contain less infrastructure, therefore it is natural to expect that perceptions of the impact of HS2 will be greater in these areas. Moreover, fears and uncertainties are exacerbated in rural areas owing to a perceived threat to the nature of the community. It is also the case that HS2 stations will generally be further away from rural areas, limiting the direct community benefits of the railway and leading to the impression that the costs of the development outweigh the benefits. For all of these reasons, we remain convinced that additional measures ought to be introduced for rural areas.
- 7.3.8 Many respondents also specifically questioned the definition of the rural/urban divide, particularly at the southern end of Phase One. It was suggested that the true

urban/rural divide did not follow the Greater London boundary, as we had proposed in the September 2013 consultation document, but that it was more nuanced than that. Since launching the September 2013 consultation, a decision was made to refine the route of HS2 by extending the tunnelled portion of the route within the Greater London boundary. In light of the consultation responses, we have therefore determined that the rural support zone should be extended to the point where the route passes below Ickenham Road on the north-west edge of Ruislip.

- 7.3.9 Some respondents raised concerns that the application of a fixed outer boundary for the RSZ would risk potential negative impacts on community relations in instances where neighbours are categorised differently. Similarly, it was suggested that the boundary ought to be applied in a more flexible manner, taking into account a wide variety of factors including the precise impact of HS2.
- 7.3.10 Wherever a fixed boundary is applied as a means for determining eligibility for a scheme it will be the case that some individuals will qualify where others do not. While it is always appealing to attempt to create a more sophisticated boundary for a scheme such as Voluntary Purchase, to attempt to do so could introduce greater complexity and uncertainty. We remain of the view that linking the availability of Voluntary Purchase to a fixed distance from the railway, while operating a further unbounded scheme outside of that area is the best means of ensuring that those most specifically and directly affected by HS2 are assisted.
- 7.3.11 Some respondents also noted that some properties would lie partially within the RSZ and as such it was unclear from the proposals whether or not they would be eligible for the scheme. We explained in the consultation document that properties which were part in and part out of the scheme would be assessed on a case by case basis, with the Government favouring acceptance based on the proportion of the property within the RSZ.
- 7.3.12 We accept, however, that the means by which this would be determined could have been made clearer and our proposals for Voluntary Purchase will include that acceptance where a property is part in and part out would be judged in much the same way as under Express Purchase. In other words, should any part of the dwelling or more than 25% of the property (meaning the hereditament that includes the house, garden and land) be within 120m, the property would be treated as if it were within 120m.
- 7.3.13 Similarly to other schemes discussed in this document, respondents commented often that the VPS could be made more generous through the provision of additional payments or through the inclusion of additional property types. As has been noted elsewhere in this document, the Government does not consider that it would be appropriate to purchase properties not needed for HS2 and outside of the safeguarded area on the same terms as those properties which may need to be compulsorily purchased.
- 7.3.14 Voluntary Purchase was designed as a means of enabling property owners to move should they wish to and in no way does it imply that the Government wishes to force the property owner into a sale. As such, it is not reasonable to suggest that additional payments be made to compensate for costs incurred or emotional distress caused by a property sale which is at the discretion of the individual involved.

- 7.3.15 Similarly, some respondents noted that the VPS proposal did not include payment of compensation to individuals not wishing to move. We are pleased to say that we have recognised the strength of this argument and the benefits to communities if people decide to remain in place. We will consult on a cash payment as an alternative to purchase by the Government.
- 7.3.16 With regard to the property types eligible under VPS, some respondents expressed a desire for the Government to relax the limits of its proposal. For instance, it was suggested that rental properties, second homes, and business premises should be included. As explained elsewhere in this document and in relation to other schemes and proposals, the Government does not accept that generalised blight has the same effect on investment or commercial property as it does on owner-occupied property and therefore we remain content that such properties should not be eligible under the schemes discussed here. As noted in chapter 5, however, we are proposing that 'reluctant landlords' will be able to make a case for Government assistance under the 'Need to sell scheme'.
- 7.3.17 The consultation document noted that an independent framework of valuers would be appointed to undertake the valuation of properties accepted under the Voluntary Purchase Scheme. Consultees largely support this approach, stressing that the independence and local knowledge of such valuers would be critical.
- 7.3.18 For all the purchase schemes undertaken in relation to HS2, we believe that valuations must be carried out by qualified individuals with local knowledge and in accordance with high standards of professionalism. They should be Royal Institute of Chartered Surveyors (RICS) registered and abide by RICS 'Red Book' principles.
- 7.3.19 The duration of the VPS was also queried by respondents, with some suggesting that, if implemented, the scheme should run beyond one year after Phase One of HS2 becomes operational, therefore allowing home owners more time to consider the real impacts of the infrastructure and whether or not they wish to move as a result.
- 7.3.20 As highlighted above, Voluntary Purchase was designed to assist property owners close to the railway but outside the safeguarded area and within the context of generalised blight caused by uncertainty about the actual effects the railway will have once operational. Moreover, one year after the line becomes operational 'Part 1' compensation comes into effect. These allow property owners to seek redress for the direct impact of the railway on their home. It is therefore not appropriate for such a scheme length to be extended beyond the point at which Part 1 compensation becomes payable.
- 7.3.21 Some responders argued that a property bond should be offered as an alternative to voluntary purchase in the same geographical area. The Government considers that the multiple stages of activating a property bond would be less attractive to a homeowner than the simple route to sale that voluntary purchase allows. Voluntary purchase would therefore undermine a property bond if they were available in the same areas. The Government has therefore concluded that this would not be an acceptable feature of any compensation package.

## Summary of this section

- 7.3.22 We will introduce a Voluntary Purchase Scheme to allow the Government to buy properties up to 120m from the centre of the railway following a request from the owner-occupier. The scheme will come into effect by the end of 2014.
- 7.3.23 We will bring the southern boundary of the Rural Support Zone to meet the outer portal of the tunnel that emerges at Ruislip.
- 7.3.24 We will consult on whether we should introduce an alternative cash offer of 10% of the un-blighted value of the property, with a cap of £100,000 and a minimum payment of £30,000.

## 8 Property bond

### 8.1 Background and decision

- 8.1.1 As set out above, the Government consulted on proposals to establish a 'Rural Support Zone' (RSZ) outside the safeguarded area, within which either a Voluntary Purchase Scheme or a Property Bond Scheme would operate. This chapter discusses the Property Bond Scheme option only, with Voluntary Purchase discussed in chapter 7 of this document.
- 8.1.2 The defining feature of a property bond, as noted in the consultation document, is the idea that eligible property owners, at an early stage of the project's development, would be given a specific and binding promise of a well-defined, individual settlement, which the property owner would be entitled to redeem in specific circumstances. Further, should the property transfer ownership, so too would the bond.
- 8.1.3 The main aim of the property bond concept is to ensure that eligible property owners do not suffer unreasonable losses because of any reduction in the market value of their properties caused by the proposed development. Some proponents of property bond schemes have also argued that such schemes may also help to support the functioning of the property market by building the confidence of property owners and prospective buyers.
- 8.1.4 The outcomes produced by any property bond scheme must reflect the way the scheme influences the behaviours and decisions of property buyers, vendors and professionals throughout the lifetime of the relevant infrastructure project. Without evidence of these behaviours and decisions from actual schemes, the performance of an HS2 property bond scheme in practice is hard to assess.
- 8.1.5 The consultation document outlined the design of a property bond scheme, prepared on the Government's behalf by expert consultants, that took account of the specific circumstances of the HS2 project and the Government's five policy objectives. By seeking comments on a specific bond scheme design, rather than a broad concept, the Government aimed to enable respondents to provide focused and useful feedback on the property bond idea.
- 8.1.6 The property bond scheme option proposed in the Consultation Paper was to be available to eligible owner-occupiers of properties within the defined Rural Support Zone. Eligible owner-occupiers were defined as those with a qualifying interest under section 149 of the Town and Country Planning Act 1990. This definition includes residential owner-occupiers, owner occupiers of small businesses (currently up to an annual rateable value of £34,800), and owner-occupiers of agricultural units.
- 8.1.7 Under the proposed scheme, the Government would pay 100% of the un-blighted open-market value of the property, as assessed by two independent valuers, following a period where the owner would attempt to sell the property on the open market at or above the assessed price. No additional compensation payments would be made.
- 8.1.8 The Government proposed that the bond be a 'time-based' bond, under which the whole value of the property would be paid and the property purchased after a certain time, as opposed to a 'value-based' bond, under which the Government would compensate for the difference between sale price and assessed un-blighted price and

would not purchase the property. The Government also proposed that the scheme must operate within a defined boundary. As an illustrative example, the Government outlined a scheme designed by consultants which would have a boundary at 120m either side of the centre line of the proposed railway.

- 8.1.9 In December 2013, the Government commissioned PWC to undertake further detailed work to assist the Government's decision making in light of consultation responses. The PWC work has enabled the Government to better understand how a bond scheme could be operated. The main conclusions from this work can be found below. The PWC report is also available at [www.gov.uk](http://www.gov.uk)
- 8.1.10 The Government continues to believe that the property bond concept has merit, and that it was right to put it forward as an option in the recent consultation paper. However, taking all consultation responses and further practical and analytical findings into account, its key concerns, as set out in the consultation paper, have not been significantly ameliorated.
- 8.1.11 The property bond concept remains largely untested and unproven in practice and its effects on the behaviour and decisions of property owners, professionals and – especially – property buyers remain unknown and hard to assess. These uncertainties mean that any decision to introduce a property bond scheme for HS2, as a very large project of long duration, would create very significant value for money risks, and community cohesion and housing market risks affecting local communities. The Government believes these risks would be unacceptable, particularly for property bond schemes with wider boundaries (for example, 240m or 300m or more either side of the line).
- 8.1.12 A property bond scheme with narrower boundaries – for example covering areas up to 120m or 180m either side of the line – would correspondingly reduce the exposure of the Government and local communities to those risks. However, the Government has found that such a scheme, for the reasons given above, would operate with little difference in effect compared to a Voluntary Purchase alternative. In the Government's view, those marginal benefits are insufficient to balance the additional administrative cost, complexity and implementation delay that would follow a decision to introduce a property bond scheme for HS2. In reaching this view, the Government has taken into account PWC's advice that the robust implementation of a property bond scheme would take around a year from a decision to proceed. The Government expects there would then need to be a period of several months for applications to be received and bonds issued to applicants. Properties would be unlikely to be marketed before summer 2015 and Government purchases of bonded properties would be unlikely before early 2016. This timetable is unlikely to meet homeowners' aspirations for a clear and quick conclusion.
- 8.1.13 For these reasons, the Government has decided against implementing a Property Bond scheme for HS2 Phase One.

## 8.2 What you said, and the Government's response

- 8.2.1 In general responses were in favour of a property bond of some type being in place, though many people suggested alterations to the type proposed either by the Government or by Deloitte, with many preferring the model proposed by the HS2 Action Alliance (HS2AA). One criticism was the narrowness of the suggested boundary (with some urging a scheme without any boundary) and the exclusion of urban areas.
- 8.2.2 A large number supported the principle of a property bond due to the belief that it represents best practice in the private sector. In response, the Government would highlight that the property bond scheme is a relatively untested idea even in the private sector. None of the private sector projects subject to a property bond scheme have yet proceeded to the construction phase, and they are not directly comparable to HS2 in size or timescale.
- 8.2.3 The Government recognises that in the absence of empirical evidence there is much room for debate about the best design of a property bond scheme for HS2.
- 8.2.4 However, the Government continues to oppose value-based bonds due to the way they appear to weaken or remove the incentive for vendors and their agents to maximise the sale price of properties. They reduce upward pressure on prices and may inhibit the long-term recovery of house prices from generalised blight. In some cases, value-based bonds may provide an incentive for collusion between buyers, sellers and agents. For these reasons, the Government considers that value-based bonds would be inconsistent with its objective to support the normal function of local housing markets around the HS2 route.
- 8.2.5 The Government continues to oppose the inclusion of urban areas outside of the safeguarding boundary in a property bond scheme. There is insufficient evidence that the HS2 railway proposals are likely to have widespread and significant effects on house prices in urban areas. The reasons for taking this view are set out in the chapter above on the Voluntary Purchase proposal.
- 8.2.6 The Government has considered the suggestions from some respondents that any bond scheme should not include an outer boundary to define eligibility. In our consultation document, we set out the view that a bond scheme without a boundary would be likely to increase the overall costs of the scheme and the liability to public funds, without producing corresponding benefits. The Government continues to hold that any workable bond scheme must include some form of geographical boundary while recognising that there is room for debate about how and where a bond scheme boundary would best be drawn.
- 8.2.7 A great number of respondents called for properties over tunnels to be covered by a bond scheme. Since those over tunnels will not generally be affected by construction or operation of the railway, the Government sees no reason to extend any boundary based discretionary scheme to such properties. The Government, since launching the consultation, has announced alternative measures to provide confidence to property owners above tunnels and to compensate for any actual damage which may occur due to the construction or operation of HS2. Those properties located close to tunnel portals in rural areas, however, would be included in schemes available in rural areas.

- 8.2.8 Some respondents opposed the idea that there should be a compulsory marketing period for bonded properties before Government purchase. The Government however maintains the view that a marketing period is clearly an essential part of any property bond scheme as it gives the market a chance to operate normally. However, the Government has noted the suggestion from some respondents that a six-month marketing period may not be appropriate for all property types. In principle, the Government agrees that there may be merit in a more flexible marketing period for bond schemes, with appropriate marketing periods for individual properties determined by experts. The Government also notes the proposal from a minority of respondents that eligibility for a property bond should be expanded to include other kinds of property owners and potentially businesses above a rateable value of £34,800. As with the other schemes discussed in this document, the property bond proposal was primarily designed to reflect the unique circumstances surrounding home ownership and was not designed for other types of properties. The Government has not received evidence that non-residential properties suffer significant or widespread generalised blight due to HS2, so there does not appear to be any clear need to provide a remedy.
- 8.2.9 Some respondents suggested that there should be stamp duty or capital gains tax relief for purchasers of bonded properties. The Government believes this would be inappropriate because the key aim of any bond scheme would be to 'normalise' the market, not to create an 'exceptional' market with different rules.
- 8.2.10 There was a suggestion from a small number of respondents to extend the expiry date of a property bond until several years after the railway opens. However a property bond scheme is a response to generalised blight caused by the fear of potential effects of the railway on properties. The Government believes that following a full year of operation all actual effects should be clear to property buyers, and the fear of potential effects will no longer be an issue. As 'Part 1' compensation would become available following the expiry of the bond, homeowners would be adequately covered for specific blight caused by ongoing environmental impacts of the operational railway.
- 8.2.11 Some respondents stated that the Deloitte model, in which bond purchase prices would be largely determined through indexation of the original bond price, may struggle to determine the correct un-blighted value at time of sale. The Government accepts this and commissioned an implementation study as part of the PWC report that has proposed a system of indexation and independent valuations. The Government considers that this could provide a clearer and more robust valuation, should the property bond be implemented.
- 8.2.12 Many respondents suggest that the bond scheme would be complex and costly to operate while others wanted a fair, accountable and simple administration process. The Government recognises the need for a fair and simple scheme, but agrees that the property bond scheme would be complex and costly to operate.
- 8.2.13 Some respondents stated their desire for appeals panels to make sure decisions in the scheme were fair. The Government understands this concern, but considers that an independent arbitration appeals process would in practice be likely to provide a quicker, equally fair and more efficient process for resolving disputes over eligibility or valuations, if a bond scheme were implemented.

## 8.3 Analytical conclusions

- 8.3.1 PWC have analysed the potential performance of a range of variants of the property bond scheme, in particular to further consider the boundary effects, taking account of the views of consultation respondents.
- 8.3.2 As discussed above, the effects of property bond schemes on the behaviours of vendors, buyers and professionals are unknown at this stage. Any analytical findings are subject to significant uncertainties. However, taken alongside the findings of the consultation process, the Government has found PWC's analytical findings useful in informing the decisions set out in this paper.
- 8.3.3 Some proponents of a property bond scheme assert that such a scheme for HS2 could allow the property market to function closer to normal parameters, enabling a significant proportion of properties coming onto the market within areas affected by HS2 to change hands privately. PWC's analysis suggests that in areas closer to the line, there is likely to be an increase in the number of properties being offered for sale, as people seek to move away from perceived effects of the railway. While a successful property bond scheme may help to restore the level of demand for properties on the part of potential buyers, PWC did not find evidence that such a scheme could attract additional buyers to those areas to re-balance this additional supply and restore a previous balance between supply and demand. So even in a 'successful' property bond scheme, many houses being offered for sale close to the line would still fail to attract buyers on the open market.
- 8.3.4 PWC therefore consider that the Government would need to purchase many, possibly most, of the properties being offered for sale in locations close to the route. In locations relatively close to the route, PWC found there would be little difference between the number of properties that would need to be bought under a property bond scheme and the number that would be bought under an alternative Voluntary Purchase scheme.
- 8.3.5 The PWC analysis demonstrates that a wider boundary could better support a low level of housing market activity than a boundary that is drawn close to the line.
- 8.3.6 However the Government considers that there is no basis for confidence in this assumption, given that property bond schemes are relatively largely untested and their actual impact on sensitive local property markets is unknown. Given the lack of directly relevant precedents for schemes it is necessary to make a large number of assumptions based on buyer and seller behaviour. Small changes in such assumptions can have quite large impacts on the cost profile for such a scheme. PWC found that wider-boundary schemes that would affect the behaviour of greater numbers of property buyers and sellers are inherently much more uncertain in their effects and their overall profile of costs and benefits, which may leave the Government needing to purchase a significant number of properties it does not need for any purpose.
- 8.3.7 In the event that the bond scheme failed to operate successfully, and had a neutral or negative effect on the confidence of buyers in individual properties, a wide-boundary bond scheme would be likely to result in costs so high as to, in the Government's view, represent an unacceptable burden on taxpayers.

- 8.3.8 It would also risk adverse impacts on community cohesion, with the Government acquiring and holding large numbers of properties, and necessarily offering many to rental tenants – potentially affecting the overall character and balance of local communities. It would not achieve the primary purpose of the bond – and the perceived advantage of the bond over the Voluntary Purchase Scheme – which is to seek to achieve, as far as possible, the normal operation of the housing market.
- 8.3.9 PWC’s work demonstrated that there are significant implementation challenges to delivering a property bond scheme.

### **Summary of this section**

- 8.3.10 The Government has carefully considered responses to its proposed property bond scheme for HS2 and has also taken into account further detailed analysis of the way such a scheme could work, and the associated benefits, costs and risks. The fact that the analysis is based on subjective assumptions cast doubt on the reliability of the results. As a consequence we have decided that the financial risks are too great and the likely outcome of such a scheme too uncertain to warrant the implementation of a property bond scheme.

## 9 Atypical properties and special circumstances

- 9.1.1 In chapter 6 of the September 2013 consultation document we set out our thinking with regard to atypical properties and special circumstances. It was noted that in certain specific cases it may be desirable for Government to supplement its discretionary schemes with further assistance for owner-occupiers living in atypical properties or special circumstances.
- 9.1.2 Though the measures outlined in this document are designed with flexibility and inclusiveness in mind, there will inevitably be some instances where it is appropriate for Government to go further. We intend to avoid unfairly disadvantaging certain individuals and to ensure that all those who take advantage of discretionary measures for HS2 are given the assistance or support they need.
- 9.1.3 HS2 Ltd will therefore work directly with property owners of atypical properties or those who are experiencing special circumstances in order to consider how their needs can best be met while protecting the interests of the taxpayer.
- 9.1.4 Though it has been suggested that this approach may not offer sufficient flexibility, we would like to reassure individuals facing such circumstances that we are committed to providing fair and appropriate access to compensation and all necessary support to those directly affected by HS2. Our approach to atypical properties and special circumstances fully reflects that commitment.

## 10 Businesses and investment properties

- 10.1.1 It was stated in the September 2013 consultation document that Government considered business and investment properties to be outside the scope of the discretionary compensation measures proposed, as generalised blight has a different impact upon such properties.
- 10.1.2 This said, many of the responses we received to the consultation directly referenced a desire for Government to extend the proposed compensation measures to commercial property or investment properties, such as rental property or second homes. Some respondents noted the role that rental properties, in particular, have in supplementing pension provisions. Others noted that it is not unusual for individuals to invest in properties which do not serve as their primary residence. Furthermore, some responses suggested that the compensation proposals be extended to private sector or social housing tenants as well as to owner-occupiers of property.
- 10.1.3 It remains the Government's view, for the reasons laid out in the consultation document that the compensation measures launched as a result of this consultation should primarily aim to assist residential owner occupiers rather than owners of business, investment or rental premises, or tenants living in private rented property.

## Glossary

**Blight:** Planning proposals such as HS2 may have an adverse effect on property so that an owner-occupier is unable to realise the market value that would have been obtainable had the owner's land not been affected by the proposals because prospective purchasers, having learned of the planning proposals, either will not proceed with the purchase or will only offer a lower price.

**Blight Notice:** A Blight Notice is a means by which an owner-occupier (as defined in Chapter 2, Part 6 of the Town and Country Planning Act 1990) can ask the Government to purchase a property on compulsory purchase terms before it is needed for construction. The ability to serve a blight notice is triggered in relation to HS2 by the safeguarding directions of 24 October 2013.

**Crichel Down Rules:** The Crichel Down Rules are non-statutory guidance originally dating from the 1950s, relating to the disposal of land acquired by, or under the threat of, compulsory purchase. They contain the procedures for offering former owners, or their successors, the opportunity to purchase back, at current market value, land acquired, provided that it has not materially changed in character since acquisition. The current version was issued in 2004.

**Crossrail:** A railway line being built across London. Crossrail will connect 37 stations, including Heathrow Airport and Maidenhead in the west and Canary Wharf, Abbey Wood and Shenfield in the east.

**Crown tenancies:** A Crown tenancy is a housing tenancy where the landlord is the Crown or a Government department.

**Compensation Code:** A collective term for the principles deriving from Acts of Parliament and case law, relating to compensation for compulsory acquisition

**Exceptional Hardship Scheme (EHS):** The existing interim measure introduced to assist homeowners who have an urgent need to sell, but because of HS2, cannot do so or can do so only at a substantially reduced price.

**Heredity:** Property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list.

**Home-loss payment:** If you are required to vacate your home for the construction of HS2 you may be entitled to receive a 'home-loss payment'. This applies to eligible properties subject to compulsory purchase. In order to qualify for this payment you must satisfy qualifying criteria that you have been in occupation of the dwelling (or a substantial part of it) as your main residence for at least a year and this occupation is by virtue of a specified interest (as defined in section 29 2(b) of the Land Compensation Act 1973). If your interest is an owner's interest (either freehold or leasehold with more than three years still to run) the sum is equal to 10% of the value of your home subject to a current minimum payment of £4,700 and a current maximum of £47,000. If the interest is other than an owner's interest then the payment is a specified amount, currently £4,700.

**HS1:** 'HS1' also known as Channel Tunnel Rail Link (CTRL) is the high speed train route running from the Channel Tunnel to London St. Pancras.

**Hybrid Bill:** Public Bills change the law as it applies to the general population and are the most common type of Bill introduced to in Parliament. Private Bills only change the law as it applies to specific individuals or organisations, rather than the general public. Groups or individuals potentially affected by these changes can petition Parliament against the proposed Bill and present their objections to committees of MPs and Lords. A Bill with characteristics of both a

Public Bill and a Private Bill is called a Hybrid Bill. Such Bills are examined in Parliament by a combination of both procedures.

**Owner-occupier:** An Owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a fixed term of years lease (with at least 3 years unexpired) and has it as their principal residence or place of business. The full definition of owner-occupiers can be found through reference to Chapter 2, Part 6 of the Town and Country Planning Act 1990

**Part 1 compensation:** Compensation which may be claimed by the owner-occupiers of dwellings, small business premises and agricultural units under Part 1 of the Land Compensation Act (1973) for any reduction in the value of their property as a result of the physical effects of the operation of the railway. This can be claimed only after the scheme has been open for one year.

**Safeguarding:** Safeguarding is a statutory process whereby Safeguarding Directions can be issued. It aims to ensure that new developments that may conflict with planned infrastructure schemes do not impact on the ability to build or operate that scheme (for e.g. HS2) or lead to excessive additional costs.

**Safeguarding Directions:** These are the mechanism by which the Secretary of State can protect the proposed alignment of a road or railway from conflicting development. The Secretary of State issues a safeguarding direction under Articles 16(4), 25(1) and 29(6) of the Town and Country Planning (Development Management Procedure) (England) Order 2010. Safeguarding directions are issued to Local Planning Authorities (LPAs) by the Secretary of State. Those LPAs are then required to consult with a body named in the directions (for example HS2 Ltd) before determining planning applications for land within the limits shown on the safeguarding plans attached to the directions, except where that type of application is exempted. These directions also trigger statutory blight and allow owners within the safeguarded area to serve a blight notice.

**Stamp Duty:** Stamp Duty Land Tax (SDLT), more commonly known as 'Stamp Duty' is generally payable on the purchase or transfer of property or land in the UK where the amount paid is above a certain threshold. Broadly speaking, SDLT is charged as a percentage of the amount paid for property or land when it is bought or transferred.

**Un-blighted open market value:** This is the value that a property would have on the open market if the cause of blight were removed – in this case if there were no plans for HS2.

**Reluctant Landlord:** An individual with a qualifying interest (under section 149 of the Town and Country Planning Act 1990) in a residential property that has resorted to renting their property to facilitate an essential relocation (e.g. due to their employment circumstances) or undue financial hardship if they were to have remained in the property. It would be anticipated that 'reluctant landlords' would own only one property – that which they had been forced to rent and would be expected that such individuals had not become owner-occupiers of a separate property following the letting of the rented property.

## Annex A: Rent-back – Value for money test

Upon receipt of a request to the responsible acquisition manager registering an interest in renting back an acquired property, the qualifying property will be assessed to establish:

1. The un-blighted open market value of the property to arrive at the purchase price to be paid for the freehold or leasehold interest to be acquired;
2. The cost of any repairs, improvements or testing of service installations required to ensure the property is in a lettable condition and accords with the Government's Decent Homes Standard and Housing Health and Safety Rating System (HHSRS); and
3. The open market rental value for letting the property on a Crown tenancy agreement, with reference to comparable properties and assuming all necessary repair works have been carried out and statutory requirements met.

Following initial valuation to arrive at the purchase price for the property in 1. above, HS2 Ltd's appointed managing agent will undertake a pre-completion and letting survey in order to report on items 2. and 3. in order to complete a value for money test to ensure the amount spent on repairs and other associated costs of letting the property do not exceed the amount of rental income recoverable prior to the property being required for the construction of the railway or identifies that the cost of maintaining it as a rented dwelling will not offer value for money.

The value for money test will in practice become more stringent closer to the start of construction as the period for receipt of rental income will be reduced. Once more detailed construction plans and timetables have been developed it will be necessary to introduce cut-off dates after which new applications for sale and rent back cannot be accepted.

It is the intention, to work with tenants to ensure any essential works to bring a property up to lettable standard are undertaken in the least disruptive way possible. In the event of significant work being required on a property accepted for sale and rent back it may be necessary for applicants to leave the property for the duration of repair works. If so the question of alternative accommodation being offered will be dealt with on a case-by-case basis as part of the value for money test.

Value for money will continue to be a priority throughout any tenancy granted under sale and rent back. If significant repairs beyond everyday maintenance are required, for example major structural work to a roof, it will be necessary to consider if these costs can be recovered. If not then notice to terminate the tenancy will be required if the property no longer meets lettable standards. In this event every effort would be made to work with tenants to manage the process in the least disruptive way.

## Annex B: Rent-back – Property surveys

Lettings granted under Rent-back will be Crown tenancies at an open market rent for an initial term of six months.

The following is a summary of the main elements of the tenancy.

### **The landlord's duties are:**

- Keep the structure and exterior of the property in good repair;
- Keep in good repair and working order all existing installations for heating, hot water and sanitation and for the supply of water, gas and electricity;
- Respect the tenant's contractual and statutory rights.

### **Secretary of State for Transport (or HS2 Ltd acting as agent for Secretary of State for Transport):**

- Charge rent and make other charges as agreed under the tenancy;
- Change the amount of rent and other charges payable as long as one month's notice is given;
- Be given access to the property by the tenant if there is an emergency or in order to carry out inspections or repairs to the service appliances provided proper notice is given.

### **The tenant's main duties are:**

- Pay rent promptly and using the method required by the tenancy;
- Take care of the property and keep the inside in a reasonable state of decoration;
- Repair or replace items damaged through neglect or carelessness;
- Carry out internal repairs and decorations repairs for which the tenant is responsible;
- Not cause nuisance or annoyance to neighbours;
- Not to keep pets without written permission;
- Use the property for residential purposes only;
- Not to part or sub-let part or whole of the property.

In addition to the above, the Tenancy Agreement which must be completed simultaneously upon legal completion of the sale of the property also sets out procedures for rent payments and rent reviews, handling of tenants' deposits, and arrangements for ending the tenancy.

At commencement the appointed managing agents will prepare a schedule of condition and inventory, a copy of which will be provided to the tenant as a true record of the condition of the property at the start of the tenancy. The managing agents will also issue a handbook for guidance of tenants containing other useful information on safety in the home, emergency contact details, rent and money matters, behaviour guidelines etc.

The property checks and safety certifications required prior to grant of a new tenancy will be identified during the pre-completion and letting survey and include:

1. Certification that gas, electricity, oil and solid fuel installations, immersion heaters and water tanks including support structures and pipe lagging, are in safe working order.
2. Portable appliance testing (PAT) including built-in appliances such as cookers, fridges etc.
3. Ensuring that smoke and CO<sub>2</sub> detectors are provided and in working order.
4. Inspection to ensure there are no dangerous structures or trees at the property
5. Asbestos surveys where appropriate

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