

Draft General Principles

1 Introduction

- 1.1.1 The High Speed 2 (HS2) Phase One Environmental Statement (ES) was published on [25th November 2013]. It is the intention of the Secretary of State to carry out the project so that its impact is as assessed in the ES. The Secretary of State will require the nominated undertaker to adhere to the arrangements provided for in the Environmental Minimum Requirements in designing and constructing the Phase One of High Speed 2 Works.
- 1.1.2 This document ~~defines and explains presents the text of~~ the relevant minimum requirements, which are referred to as the Environmental Minimum Requirements (EMR). It also contains as Annexes a series of papers which support the EMR, including the Code of Construction Practice (CoCP), the Environmental Memorandum, the Planning Memorandum and the Heritage Memorandum.
- 1.1.3 The controls contained in the EMR along with powers contained in the High Speed Rail (London – West Midlands) Bill (the Bill) and the Undertakings given by the Secretary of State will ensure that impacts which have been assessed in the ES will not be exceeded, unless any new impact or impacts in excess of those assessed in the ES:
- results from a change in circumstances which was not likely at the time of the ES¹; or
 - would not be likely to be environmentally significant²; or
 - results from a change or extension to the project, where that change or extension does not itself require environmental impact assessment under either (i) article 4(1) of and paragraph 24 of Annex 1 to the EIA Directive³; or (ii) article 4(2) of and paragraph 13 of Annex 2 to the EIA Directive⁴; or
 - would be considered as part of a separate consent process (and therefore further EIA if required).
- 1.1.4 Any nominated undertaker will be contractually bound to comply with the controls set out in the EMR and as may be developed during the passage of the Bill through Parliament.
- 1.1.5 The nominated undertaker will in any event, and apart from the controls and obligations referred to in paragraph 1.1.3, use reasonable endeavours to adopt mitigation measures that will further reduce any adverse environmental impacts caused by Phase One of High Speed 2, insofar as these mitigation measures do not add unreasonable costs to the project or unreasonable delays to the construction programme.
- 1.1.6 In addition, where a statutory undertaker is carrying out development in connection with Phase One of High Speed 2 for which it has deemed planning permission because

¹ i.e. a situation that could not reasonably have been anticipated at the time of the ES.

² This covers all effects (both positive and adverse) where those effects are simply of no environmental significance.

³ 2011 consolidated EIA Directive (2011/92/EU).

⁴ Broadly, this would not allow those changes or extensions to the project (once it has received Royal Assent) which would give rise to adverse environmental effects within the EIA

that development has been assessed in the ES, it will be required to comply with the controls set out in the undertakings and assurances referred to in paragraph 3.4 and documents contained in the Annexes, in so far as they are relevant and properly applicable to the undertaker. References to the nominated undertaker in those documents should be interpreted as references to the relevant statutory undertaker in such cases.

2 Definitions

2.1.1 It should be noted that the term 'impact' is used in the title of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to describe the environmental outcome arising from a project, while the main body of the text of the Regulations refers to the term "effect". The EMR takes these two terms to have the same meaning. ~~For consistency, the term used throughout the EMR is 'effects' instead of impacts.~~

2.1.2 In this document the following terms shall have the meanings ascribed to them for the purpose of understanding the Environmental Minimum Requirements:

- "Code of Construction Practice (CoCP)" means the series of objectives and measures to be applied generally throughout the construction period to maintain satisfactory levels of environmental protection and limit disturbance from construction activities, which is set out in Annex 1;
- "Phase One of High Speed Two" means the first section of the proposed railway that runs between London and the West Midlands;
- "Phase One Works" means works in relation to the design, construction, commissioning and completion of works authorised by the Bill;
- "Environmental Management System" means the management system to be developed by the nominated undertaker pursuant to Annex 4;
- "Environmental Memorandum" means the memorandum relating to the environmental aspects of the design and construction of the Phase One HS2 Works, which is set out in Annex 4; and
- "Environmental Statement" (ES) means the Phase One HS2 Environmental Statement submitted in November 2013.
- "High Speed Rail (London- West Midlands) Bill" means the Parliamentary Bill in respect of the HS2 scheme given Royal Assent on [.....];
- "Nominated Undertaker" means the organisation or organisations which will be appointed by the Secretary of State to design, construct, operate and maintain High Speed Rail (London – West Midlands);
- "Planning Memorandum" means the memorandum setting out undertakings given by the local authorities with respect to the handling of planning matters for the Phase One HS2 Works arising under Schedule 16 to the High Speed Rail (London – West Midlands) Bill which is set out in Annex2;

- “Heritage Memorandum” means the memorandum setting out undertakings given by the nominated undertaker with respect to the handling of heritage matters for the HS2 Works which are set out in Annex 3; and
- “Secretary of State” means the Secretary of State for Transport.

3 Environmental Minimum Requirements

- 3.1.1 “Environmental Minimum Requirements” means the requirements:
- of the memoranda and agreements referred to in paragraph 3.1.2;
 - of the undertakings and assurances referred to in paragraph 3.1.4; and
 - set out in paragraphs 1.1.5 and 3.1.6 to 3.1.10.
- 3.1.2 The nominated undertaker shall comply with and, where required to do so by the Secretary of State, shall at such time and within such period as may be reasonably required by the Secretary of State execute and deliver memoranda and agreements on planning, heritage and related matters, in the form reasonably required by the Secretary of State, including but not limited to the Planning and Heritage Memoranda, listed building agreements and overarching archaeological written scheme of investigation.
- 3.1.3 The nominated undertaker shall comply with all undertakings and assurances as specified by paragraph 3.1.4 and those undertakings or assurances shall take priority over the remainder of the Environmental Minimum Requirements to the extent of any inconsistency.
- 3.1.4 The nominated undertaker shall comply with all undertakings and assurances concerning the project specified in the “HS2 Register of Undertakings and Assurances” published by the Department for Transport or as otherwise notified to the nominated undertaker.
- 3.1.5 The nominated undertaker shall also execute and deliver to the relevant party the deeds or agreements required by those undertakings or assurances. Those deeds and agreements must be delivered and executed in the form and at the time specified in the relevant assurance or undertaking or, if no form or time is specified, as reasonably required by the Secretary of State.
- 3.1.6 Where the nominated undertaker has agreed with the beneficial recipient of an undertaking or assurance referred to in paragraph 3.1.4 to amend, change, waive or in any way alter the terms of that undertaking or assurance, the nominated undertaker shall notify, if relevant, the local authority of the geographical area to which the undertaking or assurance relates of the new agreed terms of that undertaking or assurance, and shall comply with the new agreed terms of that undertaking or assurance. However, the nominated undertaker is not to amend, change, waive or in any way alter the terms of a specific undertaking given by the Secretary of State to Parliament.
- 3.1.7 The nominated undertaker shall build Phase One of HS2 on the lands defined in the HS2 Bill. This does not preclude the nominated undertaker from building peripheral

facilities on other land provided that the necessary approvals are obtained using the normal procedures.

- 3.1.8 In the circumstances described in the first bullet point of paragraph 1.1.3, if the significant adverse impacts identified in the ES are likely to be exceeded, the nominated undertaker will take all reasonable steps to minimise or eliminate those additional impacts, ~~if despite these reasonable steps, significant adverse impacts remain the nominated undertaker will report them. or to report the new significant impacts.~~
- 3.1.9 The nominated undertaker shall adopt and implement the CoCP, which is set out in Annex 1 and shall develop and implement the Local Environmental Management Plans.
- 3.1.10 The nominated undertaker shall adopt and implement the Environmental Memorandum which is set out in Annex 4. The nominated undertaker shall develop and implement an Environmental Management System, in accordance with the requirements of the Environmental Memorandum ([section 3.5 Environmental management system – overview, Environmental Memorandum](#)), for ensuring compliance with the nominated undertaker’s environmental policy, with relevant environmental legislation, and with all the Environmental Minimum Requirements other than non- environmental aspects of undertakings and assurances. The Environmental Management System covering construction is to be developed and implemented before construction begins ([section 3.4 Environmental management system, CoCP](#)).
- 3.1.11 Where there are references to issues being agreed in the CoCP, Planning Memorandum, Heritage Memorandum and Environmental Memorandum, that agreement shall not be unreasonably withheld and any dispute or difference arising between the parties shall be referred to and determined by the Secretary of State.

4 Annexes

- 4.1.1 The following documents, which are referred to in the Environmental Minimum Requirements are attached as Annexes:
- Annex 1: Code of Construction Practice
 - Annex 2: Planning Memorandum
 - Annex 3: Heritage Memorandum
 - Annex 4: Environmental Memorandum