
High Speed Rail
(London-West Midlands)
Environmental Minimum Requirements
Annex 3:
Heritage Memorandum





Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

High Speed Two (HS2) Limited,
Two Snowhill,
Snow Hill Queensway,
Birmingham B4 6GA

Telephone: 020 7944 4908

General email enquiries: HS2enquiries@hs2.org.uk

Website: www.gov.uk/hs2

High Speed Two (HS2) Limited has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the HS2 website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact High Speed Two (HS2) Limited.

© High Speed Two (HS2) Limited, 2017, except where otherwise stated.

Copyright in the typographical arrangement rests with High Speed Two (HS2) Limited.

This information is licensed under the Open Government Licence v2.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2 **OGL** or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk. Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.



Printed in Great Britain on paper containing at least 75% recycled fibre.

Contents

1	Introduction	2
	1.1 Summary	2
	1.2 Scope of the Memorandum	2
	1.3 Purpose and understanding	2
	1.4 Structure and content	3
2	Objectives	4
3	Consultation and engagement	4
	3.1 The Planning Forum	4
	3.2 Heritage Sub-group	5
	3.3 Location-specific engagement	5
4	Investigation, recording and mitigation	5
	4.1 Overview	5
	4.2 Setting of heritage assets	5
	4.3 Sustainability	6
	4.4 Standards and professional competence	6
	4.5 Programme of heritage investigation and recording works	6
	4.6 Investigation and recording of heritage assets	7
5	Unexpected discoveries of national importance	8
6	Disapplication of heritage legislation	9
	6.1 Introduction	9
	6.2 Listed buildings	9
	6.3 Scheduled monuments	10
7	Disapplication of human remains and burial monuments legislation	10

1 Introduction

1.1 Summary

- 1.1.1 The Heritage Memorandum is one of the suite of documents forming Phase One of the High Speed Two (HS2) Environmental Minimum Requirements (EMRs) – the overarching commitments by the Secretary of State to afford appropriate management and protection of people, communities and the natural, cultural and built environment. The components of the EMRs are described in paragraph 3.1.1 of the EMR *General Principles*. These include requirements on the nominated undertaker to comply with this document, the Planning Memorandum and undertakings and assurances concerning the project specified in the register of undertakings and assurance, and to adopt and implement the Code of Construction Practice (CoCP) and the Environmental Memorandum.
- 1.1.2 The High Speed Rail (London - West Midlands) Act (the Act) provides powers for the construction and operation of Phase One of HS2. The Act grants a deemed planning permission for the works it authorises and establishes a planning regime in Schedule 17.

1.2 Scope of the Memorandum

- 1.2.1 This Heritage Memorandum sets out how the historic environment (including heritage assets and their setting) will be addressed during the design and construction of Phase One of HS2.
- 1.2.2 It is intended that the Heritage Memorandum is entirely consistent with the High Speed Rail (London - West Midlands) Act and does not duplicate provisions therein (for example Schedules 18, 19 and 20). Should there be any perceived conflict between this Memorandum and the Act, the Act will take precedence.
- 1.2.3 The terms of this Memorandum have been discussed with the Heritage Sub-group to the Planning Forum.
- 1.2.4 It is not intended that this Memorandum duplicate other components of the EMRs.

1.3 Purpose and understanding

- 1.3.1 This Heritage Memorandum presents the commitments of the Secretary of State to the historic environment and heritage assets. The Memorandum addresses the elements of the works authorised by the Act that have a direct impact on the historic environment. Direct impacts comprise both physical impacts and those on the setting of a heritage asset.
- 1.3.2 The Heritage Memorandum provides a framework for the nominated undertaker, Historic England, local authorities and other stakeholders to work together to ensure that the design and construction of Phase One of HS2 is carried out with proper regard to the historic environment.

- 1.3.3 The commitment made by the Secretary of State to the historic environment is made binding on the nominated undertaker by means of this Memorandum and the rest of the EMRs. Until such time as a nominated undertaker is appointed, the Department of Transport will fulfil the nominated undertaker’s role.

Definitions

- 1.3.4 The historic environment is an important component of the Government’s National Planning Policy Framework (NPPF). Definitions of the historic environment and heritage assets are set out in the NPPF (Annex 2 ‘Glossary’), and these definitions are used in the Memorandum:

- Historic environment: All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscape and planted or managed flora.
- Heritage asset: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).
- Designated assets: A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.
- Setting: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- Significance: The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.

1.4 Structure and content

- 1.4.1 This Memorandum sets out:

- Objectives: The high-level objectives to be adhered to by the nominated undertaker in relation to the historic environment including designated and non-designated heritage assets.
- Consultation and engagement: The approach to engagement with Historic England, local authorities and other stakeholders.
- Investigation, recording and mitigation: The approach to the investigation,

recording and mitigation of direct impacts on the historic environment and individual heritage assets.

- Disapplication of heritage legislation: The arrangements for obtaining agreement to works on designated heritage assets.
- Disapplication of human remains and burial monuments legislation: The arrangements in relation to human remains and burial monuments over 100 years old where archaeological investigation may be undertaken.

2 Objectives

- 2.1.1 In taking forward the detailed design and construction of Phase One of HS2, the nominated undertaker will have proper regard to the policies set out in the NPPF, notably Section 12 'Conserving and enhancing the historic environment', in order to protect the significance of scheduled monuments, listed buildings, conservation areas and other heritage assets (including archaeological sites and deposits). The nominated undertaker, so far as is reasonably practicable, will seek to reduce harm to the historic environment, whether through the impact upon the setting of historic assets, direct impacts upon the assets themselves or impacts upon the character of the historic landscape.
- 2.1.2 The nominated undertaker has sought to avoid direct impacts on heritage assets during the development of the route and design of Phase One of HS2. Where avoidance has not been practicable, the nominated undertaker will deliver a programme of heritage mitigation, including but not limited to investigation, recording, analysis, reporting and archiving.
- 2.1.3 Appropriate regard will continue to be given to the setting of heritage assets during the development of the design to integrate the works with the historic environment.
- 2.1.4 Sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance in achieving these objectives.

3 Consultation and engagement

3.1 The Planning Forum

- 3.1.1 For qualifying authorities, Schedule 17 to the Act sets out the principles to be taken into account as the material considerations or 'grounds' in the determination of requests of the approval of details.
- 3.1.2 The nominated undertaker will engage with Historic England, local authorities and other stakeholders on heritage matters.

3.2 Heritage Sub-group

3.2.1 A Heritage Sub-group to the Planning Forum has been set up and this group will meet throughout the design and construction period. The purpose of the Heritage Sub-group is to provide the framework for effective engagement and information-sharing on high-level technical heritage matters.

3.2.2 The objectives of the Heritage Sub-group are to:

- enable engagement on high-level technical heritage matters between the nominated undertaker, Historic England and local authorities;
- discuss and agree route-wide heritage principles and practices to be applied, as appropriate, at the project level; and
- facilitate the integration of heritage matters into other aspects of the design process.

3.2.3 The terms of reference and the function of the Heritage Sub-group will be reviewed as appropriate, as Phase One of HS2 develops.

3.3 Location-specific engagement

3.3.1 During the development of the detailed design, and the implementation of enabling and construction works, the nominated undertaker will continue to engage with Historic England and the relevant local authority (and other stakeholders, as appropriate) on the approach to the mitigation and investigation and recording of affected heritage assets on a location-specific basis, or any other grouping of assets as appropriate to the arrangement of the works.

4 Investigation, recording and mitigation

4.1 Overview

4.1.1 In selecting the route of Phase One of HS2, full regard has been given to the need to avoid or, where unavoidable, to reduce any impacts on the significance of heritage assets. All heritage assets (designated and non-designated) are included in the statements below.

4.2 Setting of heritage assets

4.2.1 The planning conditions in Schedule 17 to the Act set out the principles to be taken into account as the material considerations or 'grounds' in the determination of requests of the approval of certain plans and specifications, as well as other submissions by a qualifying authority (usually a local authority). For certain of these approvals, the grounds which the authority may take into account when considering whether to approve, condition or require a modification to a request for approval of

design for an external appearance include “to preserve a site of archaeological or historic interest or nature conservation value”.

- 4.2.2 The Environmental Memorandum sets out the approach to landscape and visual mitigation which takes account of the historic environment. The design of new and modified structures, landscape works and noise mitigation will be developed during detailed design. It is recognised that this work may have implications for the setting of nearby heritage assets, and the desirability of reducing harm to the significance of those assets through impact upon their setting will be a key consideration of the design process. Mitigation measures will be developed in consultation with other disciplines.
- 4.2.3 Information Paper *D1: Design Policy* outlines the design policy for Phase One of HS2 which includes aesthetics and quality. It includes the statement that design contributes to the Government’s pursuit of sustainable development, as set out in the NPPF, which involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life. The nominated undertaker will seek to ensure that the design for Phase One of HS2 will respect visible and non-visible heritage assets and that the design will be sympathetic to their context, environment, social setting and historic landscape character.

4.3 Sustainability

- 4.3.1 The programme of heritage works will contribute to the HS2 Sustainability Policy. HS2 will have an impact on the historic environment – a finite resource. The heritage investigation programme will contribute to the sustainability goals relevant to particular stages of the project.
- 4.3.2 The results of the investigation, recording and mitigation works will advance our understanding of the significance of the historic environment and individual heritage assets. The nominated undertaker will seek to maximise the opportunities for dissemination and outreach that this information brings.

4.4 Standards and professional competence

- 4.4.1 All works affecting heritage assets undertaken in connection with HS2 works will be carried out by suitably qualified, experienced and competent individual professionals and organisations. The nominated undertaker will require all such works undertaken to have appropriate regard to national planning policy, archaeology and built heritage standards, national guidelines and codes of practice appropriate to the project; this includes publications by Historic England, the Chartered Institute for Archaeologists and the Institute of Historic Building Conservation.

4.5 Programme of heritage investigation and recording works

- 4.5.1 The nominated undertaker will develop an integrated programme to deliver the heritage investigation and recording works outlined in the Environmental Statement

and as developed during the detailed design process. The investigation and recording works will seek to advance our understanding of the past. The programme will set out the key stages of investigation and recording, for example:

- detailed desk-based assessment;
- field evaluation (to inform location-specific investigation and recording);
- location-specific investigation and recording; and
- archaeological and built heritage post excavation (assessment, analysis, reporting and archiving).

4.5.2 The heritage investigation programme will be fully integrated with the overall construction programme and that integration will be continuously reviewed to ensure that appropriate time is allowed for investigation works without undue impact on the construction timetable. The management of construction is set out in the CoCP.

4.6 Investigation and recording of heritage assets

Generic written scheme of investigation: Historic Environment Research and Delivery Strategy

4.6.1 Route-wide approaches have been developed by the nominated undertaker in consultation with Historic England and local authorities via the Heritage Sub-group. A route-wide generic written scheme of investigation: Historic Environment Research and Delivery Strategy (GWSI: HERDS) has been prepared and sets out the research framework and general principles for design, evaluation, investigation, recording, analysis, reporting and archive deposition to be adopted for the design development and construction of the scheme. The GWSI: HERDS is supported by strategies, technical standards and procedures that provide the detailed mechanisms for the delivery of the works.

Approach to location-specific investigation and recording

4.6.2 Before enabling and construction works begin, the research undertaken for the Environmental Statement will be reviewed. Where required, for the purposes of delivering investigation and recording, additional detailed desk-based assessment and/or field evaluation will be carried out and this will inform the development of location-specific investigation and recording works (a location-specific Written Scheme of Investigation (WSI)). These documents will be developed in consultation with Historic England and the relevant local authority and will follow the objectives set out in the GWSI: HERDS.

4.6.3 Works may include the protection and preservation of assets in situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works. It may be preferable in some instances to preserve heritage assets where they are found, which may be achieved through design.

- 4.6.4 The location-specific WSIs will include individual project plans for specific activities and a programme for heritage work. Where appropriate, the programme will show time periods and sequence of activities as an integrated part of the enabling and construction works programme.
- 4.6.5 Once heritage investigations are complete, then the records generated and the artefacts and samples collected will be assessed and analysed. The results of that work will be published via a range of media and approaches to this work will be developed with Historic England and the relevant local authority. The nominated undertaker recognise the need to deposit the HS2 archaeological and built heritage archive appropriately and is committed to working with Historic England and local authorities to identify suitable repository/ies to enable the deposition of the artefacts and records generated by the HS2 heritage works. The nominated undertaker will deposit the HS2 historic environment archive in an appropriate repository or repositories.

Code of Construction Practice

- 4.6.6 The CoCP will be implemented during the planning and undertaking of construction works. The provisions of the CoCP will be imposed by the nominated undertaker on the lead contractors by means of the works contracts. The CoCP sets out the provisions that will be adopted to control effects on heritage assets. The provisions include management measures to control damage to assets that will be retained within the area of temporary land take and the preparation of project-wide principles, standards and techniques for works affecting heritage assets. The CoCP also clarifies that, where required, a programme of archaeological and built heritage investigation and recording will be undertaken prior to and/or during enabling and construction works affecting the heritage assets. The CoCP establishes the procedure to be followed in the event of unexpected discoveries. Where those discoveries are considered to be of national importance, section 5 below applies.
- 4.6.7 Locally specific control measures will be provided in the Local Environmental Management Plans (LEMPs) to the relevant local authority. The LEMPs will summarise known or potential heritage assets (both designated and non-designated), and any specific local control measures will be outlined. Some of these measures may also be subject to third-party consents, notably Heritage Agreements. The LEMPs will cross-reference the location-specific WSIs which will be produced separately.

5 Unexpected discoveries of national importance

- 5.1.1 In the event of nationally important remains not encompassed by the programme of heritage works being discovered during construction, mechanisms for delivering suitable mitigation and/or investigation and recording will be identified and put in

place following consultation with the Department for Culture, Media and Sport (DCMS), its Executive Agency Historic England and the relevant local authority.

- 5.1.2 In such cases, the nominated undertaker will examine whether preservation is feasible given the limits of deviation of Phase One of HS2 and other relevant constraints imposed by local conditions or scope or programme of the construction works required at a particular location. If preservation is not feasible, the nominated undertaker will allow a period commensurate with the construction timetable, but not less than 28 days, for heritage works to be undertaken on the site for investigation and recording. This process will be undertaken in consultation with DCMS, Historic England and the relevant local authority. At the end of that period, the nominated undertaker's work will be able to continue.
- 5.1.3 Where the Secretary of State for Transport is notified of a decision by the Secretary of State for Culture, Media and Sport, following advice from Historic England and/or representations from a local authority, that remains investigated under these provisions are of national importance and the circumstances are exceptional with respect to any remains investigated under these provisions, s/he may, after consulting the nominated undertaker, extend the period available for heritage investigation or require the nominated undertaker to take steps such as are feasible in engineering terms, to preserve the remains in situ. In those circumstances, the nominated undertaker shall comply with the Secretary of State for Transport's decision.
- 5.1.4 The nominated undertaker has developed a procedure for unexpected discoveries of national importance setting out the mechanisms to be employed following such a discovery.

6 Disapplication of heritage legislation

6.1 Introduction

- 6.1.1 As part of the powers sought by the Act, various legislative provisions in relation to heritage are disappplied in respect of specified construction activities to be carried out that affect designated heritage assets.

6.2 Listed buildings

- 6.2.1 Paragraph 1 of Schedule 18 of the Act disapplies controls under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to listed buildings which are affected by HS2 works and specified in Table 1 of Schedule 18. It is proposed that a Heritage Agreement will be made with each affected local authority and with Historic England where appropriate, in respect of those works authorised by the Act that would normally require listed building consent. These agreements will cover the specific arrangements for each of the listed buildings set out in Table 1 of Schedule 18. These Heritage Agreements will ensure that appropriate measures are in place to investigate and record the asset.

- 6.2.2 Paragraph 2 of Schedule 18 of the Act disapplies controls under the Planning (Listed Buildings and Conservation Areas) Act 1990 for those listed buildings specified in Table 2 of Schedule 18, specifically with regards to works to maintain or restore their character, or for the affixing of monitoring apparatus. This has the effect of removing the need for listed building consent for works to protect the listed building from adverse effects, such as ground settlement as a result of HS2 works. It is proposed that a Heritage Agreement will be made with each affected local authority and with Historic England, setting out arrangements for the obtaining of approvals for any protective or monitoring works to these buildings that, but for the Act, would normally require listed building consent.
- 6.2.3 To facilitate effective consultation and ensure submissions under the Heritage Agreements are determined within the required timeframe, the nominated undertaker shall, whenever reasonably practicable, engage in proportionate forward discussions about prospective submissions with the local authority and, where appropriate, Historic England.

6.3 Scheduled monuments

- 6.3.1 Paragraph 1 of Schedule 19 of the Act disapplies controls under the Ancient Monuments and Archaeological Areas Act 1979 in relation to scheduled monuments which are affected by Phase One of HS2.
- 6.3.2 It is proposed that a Heritage Agreement will be made with Historic England and this agreement will cover the site-specific arrangements for scheduled monuments in respect of such HS2 works as would have required scheduled monument consent were it not for the disapplication of the 1979 Act. This agreement will ensure that appropriate investigation, recording and/or protection measures are in place.
- 6.3.3 To facilitate effective consultation and ensure submissions under the Heritage Agreement are determined within the required timeframe, the nominated undertaker shall, whenever reasonably practicable, engage in proportionate forward discussions about prospective submissions with Historic England.

7 Disapplication of human remains and burial monuments legislation

- 7.1.1 All human remains affected by Phase One of HS2 will be afforded due dignity, care and respect.
- 7.1.2 Burial grounds have been avoided as far as practicable during the development of the scheme design. Where avoidance has not been practicable, every attempt will be made to limit the impact on burial grounds during the development of the detailed scheme design.

- 7.1.3 Where the construction of Phase One of HS2 will have a direct physical impact on human remains and burial monuments, notably burial grounds, the Act disapplies the various legislative provisions to enable specified construction activities to be carried out. The nominated undertaker has developed a 'Burial Grounds, Human Remains and Monuments Procedure' to implement the legal requirements of Schedule 20 of the Act. This procedure has been developed by HS2 Ltd in consultation with Historic England, the Heritage Sub-group and other relevant stakeholders.
- 7.1.4 A distinction is made between human remains buried over 100 years ago and those buried more recently. Where burial occurred over 100 years ago, consideration will be given to the extent of archaeological investigation and recording. The extent of any archaeological investigation will be determined in consultation with Historic England, the relevant local authority and the Archbishops' Council (Church of England).
- 7.1.5 The nominated undertaker will undertake a programme of engagement on the preparation of location-specific WSIs for the burial grounds at St James' Gardens, St Mary's and Park Street. The nominated undertaker will secure that articulated remains will, where reasonably practicable, be removed from the burial ground in which they are buried by hand digging.

High Speed Two (HS2) Limited,
Two Snowhill
Snow Hill Queensway
Birmingham B4 6GA

www.gov.uk/hs2