

Review of Property Issues

January 2012

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Review of Property Issues

Introduction

- 1 We recognise that home-owners along the line have already been affected by the proposal to build HS2.
- 2 HS2 will have a significant positive impact on the UK transport network and economy.
- 3 We recognise that it will also affect home-owners, communities and businesses along the line.
- 4 We have taken a number of important decisions to limit these negative impacts. These include moving the line away from towns and villages, lowering it further into cutting, and increasing the length in tunnels.
- 5 Past experience of infrastructure projects and other kinds of development suggest that blight tends to be at its worst before building starts. The uncertainty about what might happen creates fear and helps spread rumours that often have little basis. The reality of the impact, when it arrives, consistently turns out to be less disruptive than feared. Blight is at its highest when there is most uncertainty and least definite information.
- 6 We have already worked to minimise that uncertainty and blight by consulting on a preferred line of route and by organizing a comprehensive consultation.
- 7 The responses we received to the property question in the February 2011 consultation, *'High Speed Rail: Investing in Britain's Future'* has strengthened the evidence base on which we have built policy proposals.
- 8 Annex A of the document accompanying that consultation described the existing statutory mechanisms in place for providing assistance to property owners affected by construction projects such as a new high speed rail line.
- 9 It also discussed the approach and options for additional assistance the Government was considering providing to the owners of properties which experienced a significant diminution in value as a result of proximity to any new high speed rail line between London and the West Midlands.
- 10 It stated an ambition to work towards a property deal that would:
 - Assist those whose properties lose significant value;
 - Enable the normal functioning of the property market;
 - Reassure now that fair compensation will be paid;
 - Enable people to stay in their homes and communities; *and*
 - Avoid Government owning large numbers of properties.
- 11 One of the clearest messages to come through (both from the written consultation responses and from statements made and questions asked by the individuals who came to the road-shows) is a widespread fear that the Government will not do enough to prevent blight and protect property values and communities.

- 12** Many homeowners expressed real concern that the disruption caused by construction would lower property values and make their communities less attractive places to live.
- 13** Others were concerned that their properties would be affected by vibration and subsidence because of HS2 tunnels.
- 14** Of the around 55,000 people who responded to the consultation 36,036, or over 65%, included comments on the potential impact of HS2 on property.
- 15** The vast majority of these comments were made by members of the public rather than organisations, and the concerns raised were often personal and interwoven with those individuals' hopes and fears about their future.
- 16** A fear of increased noise is a common thread running through many of the consultation responses. In total, 11,843 respondents mentioned noise and many stated their concern that an increase in noise might cause irreversible damage to their quality of life and to the communities they live in.
- 17** Responses also highlighted the potential impact on farming. We will work with those affected on a case by case basis.
- 18** During the February consultation we set out three broad policy proposals: a hardship-based property purchase scheme, a bond-based purchase scheme and a compensation bond.
- 19** Many respondents complained that the consultation did not provide enough detail about these proposals for them to be able to respond usefully.
- 20** It is understandable that when asked to discuss something as important and as personal as their own homes and communities many individuals felt that they deserved as much detail and as much reassurance as possible.
- 21** At the same time, we believe that comments like these reflect a genuine difficulty in striking a balance between providing enough detail to make the consultation meaningful and reaching policy conclusions before having consulted properly.
- 22** Others stated that no amount of compensation could ever be acceptable. For some, this was because of their strong opposition to HS2 in general. For others, the perceived risk of damage to communities and the environment was simply too great to be tolerated.
- 23** 16,027 respondents stated (in response to Question 7 on blight and compensation) that they did not agree with the options set out to assist those whose properties lose a significant amount of value as a result of any new high speed line.
- 24** 2,667 said that they did agree without referring specifically to the options, and 530 agreed generally with some caveats.
- 25** Some of those who support the approach set out by the Government argued that this is a fair and even generous approach to compensation. Others focused more on the argument that some level of blight has to be tolerated if the UK's infrastructure is to be improved.

- 26 Only 4,474 responses explicitly mention any of the three options. Of these 4,402 backed the bond-based purchase scheme, whether outright or with caveats. The Council of Mortgage Lenders and the British Bankers' Association said that they thought this proposal would allow for valuations of affected properties on an un-blighted basis and so help sustain local property markets.

The Government's Response

- 27 We have been considering how to develop a property and blight scheme for HS2 that addresses the concerns raised above. At the same time, the consultation responses show that the existing compensation regime is widely misunderstood.
- 28 The existing law around compensation and blight is complex, in part because it has built up over many decades of case law and in part because it has to reflect the complexity of people's circumstances. We therefore believe that it is worthwhile summarising key provisions here.

Existing Statutory Arrangements

- 29 The current statutory position on blight and compensation is as follows:

If you are a home-owner and your home needs to be acquired compulsorily to make way for the line:

- 30 In return for giving up your home you are entitled to its independently assessed, open market value (as if unaffected by the HS2 scheme) plus a home loss payment

(10% of the value up to a current maximum of £47,000), plus your reasonable moving costs (such as expenses for removing possessions, surveyor's and legal fees and stamp duty on a new property). In addition, if you are an owner-occupier, you may ask the Government to buy your property early if you wish (under these same terms).

If we only need to take part of the land you own to make way for the line:

- 31 For the land taken you will receive the open market value (as if unaffected by the HS2 scheme) plus any loss in value to the part that you retain. If you lose a significant part of your land (like part of the garden of a typical residential property) you may ask the Government to buy the whole of the property from you if you wish.

If you are a tenant and your home needs to be acquired compulsorily to make way for the line:

- 32 If you are a tenant and your home needs to be acquired compulsorily to make way for the line you may be entitled, under certain circumstances, to a £4,700 flat rate home loss payment as well as reasonable moving costs. Councils also have an obligation to re-house council tenants whose homes are compulsorily purchased.

If you own a business whose premises have to be acquired compulsorily to make way for the line:

- 33 Business tenants and commercial property owners who occupy their own premises are entitled to an occupier's loss payment and disturbance costs (which can include business losses).

If your property is not needed for the line, but HS2 will have a physical effect on it (e.g. increased noise, vibration or light pollution):

- 34 The existing law allows property owners to claim for loss of value on their property resulting from the noise, vibration or artificial lighting caused by the operation of any new high speed line. These payments, known as Part 1 payments (after Part 1 of the 1973 Land Compensation Act) can be claimed after the railway has been open for one year (as it is only at this stage that the actual impact can be assessed).

More information about compulsory purchase and statutory blight is available on the Communities and Local Government website at: www.communities.gov.uk/publications/planningandbuilding/compulsorypurchase

A Fair Property and Blight Deal for HS2

- 35 Given the exceptional nature of HS2, we believe that there is a strong case for introducing **adjustments** to the system summarised above as it applies to this project.

If your home is to be compulsorily purchased and you would rather move sooner than later:

- 36 We intend to introduce a **streamlined advance purchase scheme** to simplify the statutory blight process for property owners.

If your home is to be compulsorily purchased and you want to stay until it is needed for construction:

- 37 We do not believe that people should be pressurised to move before their property is actually needed for the construction of the railway. We therefore propose that there should be a **sale and rent back** scheme to allow these homeowners to remain in their homes as tenants.

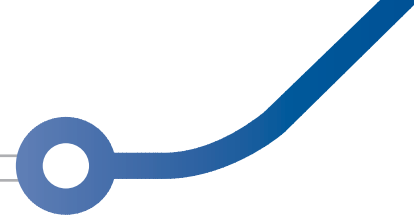
- 38 These owners would be given an open market value (as if unaffected by the HS2 scheme) for their property under the compensation code, and pay a market rent that would reflect any blight, with the other rent back terms being negotiated on a case by case basis.

- 39 They would be able to remain in occupation for as long as they paid that rent, until their property was needed for construction.

If you are affected by construction:

- 40 Many respondents expressed a widespread concern about the impacts of the construction process on local people, particularly in areas where this is expected to last for a number of years. This ranged from concern about direct impacts such as noise or dust from construction sites, to more indirect impacts such as temporary road closures or increased congestion due to construction traffic.

- 41 The Government has already committed to a comprehensive Code of Construction Practice which will address a number of issues, including but not limited to: traffic management plans, restrictions on working hours/practices, dust management and suppression plans, and controls on construction noise.



42 In light of the strength and breadth of the concerns raised by respondents to the consultation, we have decided to introduce an additional **streamlined small claims scheme** to help those who would be entitled to compensation under existing legal principles receive that compensation more quickly and more easily. This would apply, for example, if your car were to be damaged by an HS2 construction truck.

43 The Government has asked HS2 Ltd to consider the details of such a scheme and to provide recommendations. We plan to consult on the detail alongside the Code of Construction Practice consultation during 2013.

If your home is above a tunnel:

44 Many respondents expressed concerns about the possible effects of **tunnels** on the people and properties above them. Some asked about why properties above tunnels had been excluded from the Exceptional Hardship Scheme (EHS) while others were unhappy about what they saw as the risk of vibration and/or settlement.

45 HS2 Ltd has already published some technical information in support of its view that perceptible vibration impacts can be avoided.

46 The Government has already committed to undertaking before and after surveys of properties above tunnels in order to reassure residents and make good any problems that do arise. But the Government agrees that more can be done both to reassure existing residents, and to reassure the property market, that any fears about HS2 tunnels are unfounded.

47 The Government therefore proposes **a package of measures to reinforce confidence in properties above tunnels:**

- Publishing a clear, thorough and fully-evidenced assessment of the UK's recent history of building such tunnels, the actual impacts that these have had on the properties and people above them, and the measures that will be taken to ensure that perceptible vibration impacts can be avoided;
- Publishing further details on how the 'before and after' surveys would work, including who would be eligible; and
- Introducing a system of 'settlement documents' to provide owners of properties above tunnels with a legally binding confirmation that HS2 will be responsible for resolving any settlement or subsidence issues caused by HS2 tunnelling and consequent vibration.

48 We also want to clarify that owners of properties above tunnels will be entitled to some financial compensation for the compulsory purchase of their subsoil rights and for reasonable costs that they incur as a result of this transfer of ownership.

If, for personal reasons, you have a strong need to sell urgently:

49 We also believe that there is a strong case for introducing **a refreshed hardship-based property purchase scheme.**

50 Over the lifetime of the construction of HS2 there will be individuals and families who through no fault of their own have an urgent need to move.

51 A hardship-based property purchase scheme would allow you to ask the Government to buy your property quickly and for what it would have been worth had there been no plans for HS2.

52 Only 472 respondents commented on the hardship scheme proposal and 453 of those were critical, but this is a policy that, although of limited relevance to most, can still be a crucial help to a minority.

53 The existing Exceptional Hardship Scheme (EHS) helps owner-occupiers who urgently need to move and whose properties are blighted by the uncertainty around HS2 to sell to the Government.

54 The refreshed scheme is likely to be constructed along similar lines, but may have different criteria. This is because the EHS was designed to cope with an uncertain situation where statutory arrangements were not yet active.

55 We are also considering whether to review the existing EHS process.

If you rent your home from a council or a housing association:

56 We are committed to working with all affected local authorities to agree a joint strategy, including thorough engagement with local people, businesses and communities to provide new, high, quality social housing to replace any which is compulsorily purchased.

If you are affected by generalised blight:

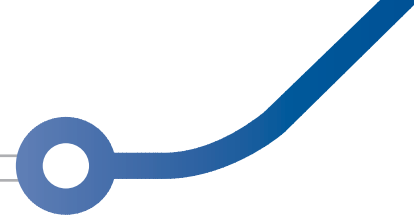
57 In the February 2011 consultation we set out three broad proposals for new policies to deal with generalised blight:

- A hardship-based property purchase scheme: this would supplement the statutory blight provisions so as to extend in specified circumstances to people outside the safeguarded zone who were nonetheless affected by generalised blight;
- A bond-based purchase scheme: this would make the Government into the buyer of last resort for affected owner-occupied residential properties; and
- A compensation bond: this would entitle affected property owners to receive cash compensation for loss of value caused by HS2.

58 We have decided to proceed with a **refreshed hardship scheme**, for the reasons set out above.

59 We believe that there is only a very weak case to be made for introducing a **compensation bond** and have therefore decided not to proceed with it.

60 Of the 551 respondents who mention it, only 81 believed it was an appropriate option. Many were concerned that the compensation would only start to be paid out once the line had been running for a year. Others did not believe it would help the local property market. And in contrast with the hardship property purchase scheme there is no particularly affected minority that would be helped.

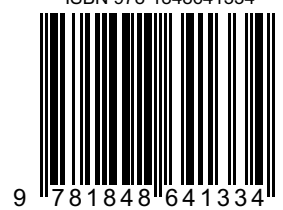


- 61 We have also made the decision not to introduce a **bond-based property purchase scheme**.
- 62 Under such a scheme, as stated in the February 2010 consultation document, a qualifying property owner would apply to the Government for a 'bond' or guarantee to purchase the property at a future date. Rather than leading to an immediate sale, the bond would guarantee the holder that once a certain stage in the project has been reached, they would be able to sell their property to the Government at its unaffected market value if they were not able to do so on the open market.
- 63 We learnt, through the consultation process, that many respondents felt the bond-based property purchase scheme might have the potential to make a positive difference.
- 64 But it also became increasingly clear that we cannot discount the associated risks and costs.
- 65 The bond-based property purchase scheme would impose an additional burden on the taxpayer.
- 66 It also might have run the risk of exacerbating blight (the very problem it seeks to address) if it led to the Government owning so many properties along the line of route that it unsettled the balance of communities and significantly lowered home-ownership.
- 67 It is also important to stress that this proposal did not receive unambiguous support in the responses to the February 2011 consultation.
- 68 As stated above, 4402 consultation responses stated outright or qualified support for a bond-based purchase scheme.
- 69 It is, however, important to set this in context.
- 70 The vast majority of those who responded to the consultation (and even the vast majority of those who responded specifically on property issues and expressed serious concern as to the impact that HS2 might have on property values and communities) did not comment either way on the merits of the bond-based purchase scheme.
- 71 We have therefore decided not to take forward the bond-based property purchase scheme.

Next Steps

- 72 We recognise that to develop an effective set of policies on blight and compensation we have to understand the market impacts and local issues thoroughly.
- 73 That is why we will consult further on blight and property proposals.
- 74 We plan to open a 12 week consultation in spring 2012 which will enable us to finalise the Government's approach on blight policies.
- 75 We would like to take this opportunity to encourage all those affected and interested to respond to this consultation – your responses will shape what becomes Government policy.
- 76 We will then aim to finalise the property and blight deal later in the year.

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