

HS₂ PHASE TWO EXCEPTIONAL HARDSHIP SCHEME

Decision document



HS2 Phase Two Exceptional Hardship Scheme

Decision document

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

July 2013



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.

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Foreword

HS2 will be a vital part of our infrastructure. This new high speed line from London to Birmingham and Birmingham to Leeds and Birmingham to Manchester will open up opportunities for this country that we have not seen in generations. Its scope to transform this country is enormous.

The delivery of a state-of-the-art, safe, reliable high speed network will not only better serve our great cities but will return Britain to the forefront of engineering and construction. We must seize the chance to deliver the capacity, connectivity, growth and regeneration that this project promises, building a network we can all be proud of. We can generate jobs, support regeneration and growth in cities and unite regions. This will enable them to better compete with the capital – building a stronger Britain.

The Government is committed to supporting those individuals who are directly affected by the proposals for HS2. We recognise that people and communities along the proposed route will have differing circumstances and diverse needs. In order to address this, we consider the undertaking of public consultations to be hugely important. These consultations help us to shape policies that reflect the issues and concerns most important to those affected.

In recognition of the long time-frame for finalising plans for Phase Two of HS2, I have decided to go beyond what is required by law and launch a Phase Two Exceptional Hardship Scheme (EHS). This scheme will help those most in need of assistance during this early stage in the development of Phase Two.

This will not be the only opportunity, however, for those directly affected by the project to ask the Government to purchase their property. Once the route of Phase Two has been developed further, we will safeguard the route and statutory measures will come into effect. At that stage we will also consider options for further, long-term, discretionary compensation, as we are doing for Phase One.

With HS2 we will provide a long-lasting, secure and efficient rail legacy for future generations, just as our Victorian railway pioneers did for us nearly 200 years ago. At the same time, I remain determined to ensure that the needs of those directly affected are addressed in a fair and balanced manner.



The Rt Hon Patrick McLoughlin MP
Secretary of State for Transport



1 Introduction

- 1.0.1 On 10 January 2012, the Government announced that it had decided to proceed with plans to build a new high speed railway network (known as HS2) and that it would be built in two phases.
- 1.0.2 Phase One will run between London Euston and the West Midlands, with a new station built in central Birmingham, linking to the existing West Coast Main Line north of Lichfield. Phase One will also provide a direct link with Continental Europe through HS1 and the Channel Tunnel.
- 1.0.3 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 the East Midlands Hub, near Toton, Sheffield Meadowhall in South Yorkshire, Leeds, Manchester Airport and Manchester. The proposals also include further connections to the existing West and East Coast Main Lines.
- 1.0.4 As the Government said in January 2013, it believes the HS2 network should link to Heathrow and its preferred option is for this to be built as part of Phase Two. However, the Airports Commission launched in September 2012 is recommending options for maintaining the country's status as an international aviation hub. It would be premature to commit significant funds and effort until the Commission's recommendations have been considered. On 28 January, the Government therefore announced a pause to work on the spur to Heathrow until after the Commission reports in 2015.
- 1.0.5 The Government believes that measures to assist or compensate property owners affected by the HS2 proposals must reflect the significant impact that comes with the construction of a high speed rail line. Past experience of large infrastructure projects has shown that the effect on local property markets is at its highest during the planning, design and construction phase of a project. Once a project is built and in operation the local property market tends to return to normal as the actual impacts are less than first feared.
- 1.0.6 The statutory compensation system, an overview of which is provided in Appendix A of this document, has developed over a long period of time to take into account a wide variety of different development projects, including large infrastructure schemes. It is appropriate for the vast majority of infrastructure projects. However, given the impact and long time scale of the construction of HS2, the Government believes that in this case it is appropriate to go beyond what is required in law by introducing early measures for those in exceptional hardship. Therefore, for Phase Two of HS2, we have consulted on proposals to introduce an additional, discretionary, 'Exceptional Hardship Scheme' (EHS) in advance of statutory provisions taking effect or consideration of further, long-term discretionary schemes. A similar scheme is already in operation for Phase One of HS2. This document reviews the Government's Phase Two EHS proposals and presents our decision following the recent Phase Two Exceptional Hardship Scheme consultation.

2 What did we consult on?

2.1 The purpose of the consultation

- 2.1.1 The consultation sought the public's views on proposals to introduce an exceptional hardship scheme for Phase Two of the high speed rail network for Britain. The proposed scheme was designed to protect the interests of residential, agricultural and small business owner-occupiers of properties (the value of which may be affected by the initial preferred route, station and depot options for Phase Two of the network) who could demonstrate that they have a need to sell their property within the lifetime of the scheme. This proposal was for a property purchase scheme, and was not designed to provide 'compensation' to individuals affected by proposals for HS2. In other words, under the proposals, the Government would purchase properties from qualifying individuals, but would not provide additional compensation over and above the full un-blighted open market value of the property.
- 2.1.2 So far as Phase One of HS2 goes, in August 2010 an exceptional hardship scheme was introduced for Phase One of HS2, following a consultation exercise. That scheme is discretionary (i.e. not required by law). Consultation began when the then Secretary of State indicated his initial preferred route for Phase One. The Phase Two EHS consultation was launched at the same stage of route development, that is, when the Phase Two initial preferred route was published on 28 January 2013. Having considered feedback on the Phase One scheme, the Government included a number of operational improvements in its 2013 Phase Two EHS proposals. These proposals are detailed in this document.

2.2 Overview of the EHS proposals

- 2.2.1 The proposals were based upon the already active Phase One EHS, with some operational improvements, and outlined a property purchase scheme where applicants would be asked to demonstrate that their circumstances met five qualification criteria: property type, location of property, effort to sell, no prior knowledge of Phase Two of HS2 and exceptional hardship.
- 2.2.2 Applications to the scheme were to be assessed by a majority independent panel, with a decision maker appointed by the Secretary of State for Transport making the final decision on each case.
- 2.2.3 Successful applicants would have their property purchased by the Government for 100% of its un-blighted open market value, as assessed by two independent chartered surveyors.
- 2.2.4 Based on the operation of the Phase One EHS, proposals for the Phase Two scheme included a number of modifications. One such modification related to re-applications to the scheme. Specifically, we proposed that reapplications submitted within six months of the original decision being communicated should (other than where there has been a relevant change in the applicant's circumstances) be considered only against the criterion or criteria upon which the previous application was refused.
- 2.2.5 We also proposed that the information available during assessment of applications should be enhanced for the Phase Two scheme. In addition to maps of the area, we

proposed that mapping software and photographs (including aerial photography) be used to assist the panel appointed to consider applications. We also proposed that applicants would be able to submit their own photographs in support of their applications.

2.2.6 Having reviewed the proposals, consultation respondents were asked to submit their views on three questions:

Question 1. Do you agree or disagree that the Department for Transport should introduce an Exceptional Hardship Scheme for Phase Two ahead of decisions on how to proceed with the routes? What are your reasons?

Question 2. Do you agree or disagree with the proposed criteria underpinning the Exceptional Hardship Scheme for Phase Two? What are your reasons? Please specify any alternative principles you would propose, including specific criteria for determining qualification for the scheme.

Question 3. Do you agree or disagree with the proposed process of operating the Exceptional Hardship Scheme for Phase Two? What are your reasons? Please specify any alternative arrangements which you would suggest.

3 The Government's decision

3.0.1 We have decided to introduce an EHS for Phase Two of HS2. Under this scheme:

- There will be no defined geographical limit
- Owner-occupiers of residential, small business, and agricultural properties are eligible to apply
- Applicants are asked to demonstrate that they satisfy five criteria – Property type; location of property; effort to sell and the impact of blight; no prior knowledge of Phase Two of HS2; exceptional hardship
- Applications will be assessed by a panel, who will submit a recommendation to a senior civil servant decision-maker appointed by the Secretary of State
- Successful applicants can have their property purchased by the Government for 100% of its un-blighted open market value
- Applicants who are unsuccessful will receive a letter detailing the reasons why, and will be able to re-apply through a streamlined process.

3.0.2 Further details on the Phase Two EHS and the reasons we have decided to implement this scheme follow below.

3.1 Response analysis

3.1.1 The Government received a total of 3,093 responses to this consultation from a range of individuals and organisation.

3.1.2 Ipsos MORI 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. You can view the Ipsos MORI report in full at: www.hs2.org.uk/phase-two/route-consultation/document-library.

3.2 What did we learn?

3.2.1 This consultation allowed members of the public, their elected representatives and groups or organisations to contribute their views on the Government's proposals for a Phase Two Exceptional Hardship Scheme. The responses show that though there was strong support for the introduction of a scheme as soon as possible, many people have specific concerns or issues which they feel ought to be addressed by the Government in the design of this scheme, or in the short to medium term development of the HS2 project.

3.2.2 It was clear from the responses we received that the introduction of a scheme was desired at the earliest opportunity. However, many felt that the scheme proposed did not go far enough for a variety of reasons.

3.2.3 One overarching theme of the responses was that property owners were concerned that they would suffer financial consequences as a result of the proposals for HS2, or that the availability of compensation overall (not just in the context of an EHS style purchase scheme) would in some way be unfairly limited.

- 3.2.4 Similarly, many respondents felt that the EHS did not go far enough in assisting individuals affected by HS2, such as those who are not suffering 'exceptional' hardship or those individuals who had no plans to move, but may be affected by construction or operation of the line.
- 3.2.5 Respondents also asked why the Government had not introduced compensation at the same time as it announced the initial preferred route for Phase Two. There are a number of reasons why the Government undertakes public consultations: to garner views and preferences, to understand possible unintended consequences of a policy and to get views on implementation.
- 3.2.6 Increasing the level of transparency improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems. This is a part of strengthening policy making.
- 3.2.7 Many responses to the consultation referenced procedural concerns regarding the EHS. Some were worried that the proposed method of applying to or operating the scheme was too bureaucratic. Others were concerned about the effects that the HS2 project, including the parameters of the EHS, would have on their quality of life.

3.3 Alternative proposals to an EHS

- 3.3.1 A number of alternatives to the proposed EHS were submitted, including a Property Bond; a scheme whereby property owners would be provided with compensation based on the loss of value in their property alone; or mechanisms where the Government would pay compensation in recognition of an 'intention to sell' alone.
- 3.3.2 Phase Two of HS2 is at a very early stage of development. As such, it would not be appropriate for the Government to introduce broader, long-term compensation schemes at this stage.
- 3.3.3 Introducing long term schemes now, when the route has yet to be consulted on, brings a risk of the taxpayer funding the purchase of large numbers of properties that might, in the event, not be needed for the line. If the Government did buy large numbers of properties, it might even become more difficult to justify modifying the route to take it away from a particular area, thereby compromising the consultation on the line of route. Furthermore, it is difficult to envisage constructing a long-term discretionary package that does not take account of safeguarding directions, which could not be introduced until later in the project.
- 3.3.4 The EHS is designed as a temporary scheme, and at a later date, when details of the route for Phase Two have been firmed up, we will consider options for further, long-term, discretionary compensation, as we have done for Phase One.

3.4 The Exceptional Hardship Scheme for Phase Two of HS2

- 3.4.1 The Government recognises that HS2 is already causing uncertainty for individuals, communities and businesses along the line of route. In particular, until the Government makes a final decision on the route for Phase Two, there will be uncertainty about which properties will need to be purchased in order to construct and operate the line, or which additional properties may be affected during its construction.

- 3.4.2 There is no legal obligation for Government to address this. However, as HS2 is a project with a very long timescale, the Government considers that those adversely affected should have access to some form of redress. This is why we see that it is necessary to go beyond what is required by law and introduce a discretionary scheme to assist those most in need. This section of the document outlines the details of the Phase Two EHS which has now been launched.
- 3.4.3 In deciding to choose an EHS as the appropriate scheme to proceed with, we have taken the comments made by consultation respondents into account.
- 3.4.4 We have also considered the requirement to balance the needs of property owners and the taxpayer. It is important to note that this is an interim scheme designed to help property owners at the early stages of the development of Phase Two. This is not the only opportunity, however, for those directly affected by the project to ask the Government to purchase their property. The EHS is a discretionary scheme which supplements statutory measures. When the route of Phase Two of HS2 is safeguarded, statutory compensation measures for blight will become available in the safeguarded area. At that stage, we will also consider options for further long-term discretionary compensation, as we are doing for Phase One.
- 3.4.5 The Government's decision to launch a Phase Two EHS should be considered and understood within this context.
- 3.4.6 We have already introduced an Exceptional Hardship Scheme for Phase One of HS2 and following the recent consultation described above we have now decided to launch a similar scheme for Phase Two of the project. The EHS is a voluntary purchase scheme designed to assist property owners whose properties are on or in close proximity to the proposed route and who urgently need to sell their properties before long term measures are put in place. Under the terms of the scheme, successful applicants will receive 100% of the un-blighted open market value of their property. That is, the value were there no proposals for HS2.
- 3.4.7 We would like to be clear that the EHS is not designed to support the property market along the proposed line of HS2. Rather, it is designed to assist owner-occupiers with an urgent need to sell their property. Nor does the EHS represent the Government's only approach to helping those affected by the HS2 project.

3.5 Who is eligible to apply?

- 3.5.1 The Phase Two EHS is designed to protect the interests of:
- owner-occupiers (to include freeholders and long leaseholders) of private residential properties;
 - owner-occupiers of business premises with an annual rateable value not exceeding £34,800;
 - owner-occupiers of agricultural units;
 - mortgagees who can satisfy the Phase Two EHS criteria, have a right to the sell a property and who can give immediate vacant possession; and

- personal representatives of a deceased person who had a qualifying interests at the time of death

who may be directly affected by the Government's proposals for Phase Two of HS2.

3.5.2 The Heathrow Spur is not part of the initial preferred route for Phase Two. However, the Government recognises the impact that the earlier release of information about a Heathrow Spur route may have on property owners. The Government will therefore consider applications from property owners potentially affected by the early Heathrow Spur route proposals under the EHS for Phase Two.

3.5.3 For further information regarding HS2 Ltd's proposals for a Heathrow Spur, please see: <http://assets.hs2.org.uk/sites/default/files/inserts/130116%20heathrow%20route%20description%20for%20ehs%20final%20policy%20approved%20text.pdf>

3.6 Criteria to determine qualification for the Phase Two Exceptional Hardship Scheme

3.6.1 The owners of certain properties on, or in the vicinity of, any of the sections of the Phase Two initial preferred route options or the Heathrow Spur route (including proposed stations) could qualify for the EHS, subject to their meeting the five criteria set out below.

1. property type – a qualifying interest in the property (ownership or otherwise);
2. location of property (expected impacts of the line);
3. effort to sell and the impact of blight;
4. no prior knowledge of Phase Two of HS2; and
5. exceptional hardship necessitating an urgent need to sell.

3.6.2 These are the same criteria on which we consulted in the January-May 2013 consultation. We have carefully considered the responses received, including a number concerning the specific criteria for acceptance of the above criteria. We outline below the how each of the criteria will operate, and the reasons why we have shaped them in this manner.

Criterion 1. Property type

3.6.3 The purpose of this criterion is to ensure that the person applying to the scheme has the right to sell the property and that the type of property is one which the scheme covers. The Government considers that inclusion of this criterion is essential to ensuring that the scheme functions within the parameters for which it is designed (i.e. with a focus on owner-occupied properties) and that it provides redress to those who have a legitimate claim for assistance regarding the property in question.

3.6.4 The EHS is not open to applications regarding second homes, investment properties, or rented homes. Some respondents to the consultation questioned why we had proposed this. It is important to be clear that the statutory compensation code includes provisions which cater for properties of this nature. Owners of such properties can find out more information on these provisions at: www.communities.gov.uk.

- 3.6.5 The EHS is focussed on addressing the unique circumstances facing owner-occupiers whose properties are affected by our proposals for Phase Two of HS2. At this early stage of designing Phase Two of HS2, the Government has decided to go beyond what is required by law in order to assist owner-occupiers of property directly affected by proposals for the project. Once there is greater certainty regarding the route and design of the railway, we will assess the options for long-term compensation.
- 3.6.6 Another issue raised by consultation respondents is in regard to larger commercial properties. The EHS is designed specifically to assist those most in need during the early stages of the project. It has not been designed to assist large commercial organisations. Though some large commercial organisations will be affected by the proposed route as we move toward safeguarding and compulsory purchase, generalised blight does not affect large businesses in the same way as owner-occupied properties. We therefore feel that these cases would be best managed through consideration outside of the EHS and in line with the statutory compensation code.
- 3.6.7 The Government will undertake in-depth, one to one engagement with larger businesses. Under the statutory code, we are obliged to make provisions for alternative accommodation for such businesses should they be necessary, and we will work with the organisation in question to ensure that this process is undertaken successfully. This is a proven approach to ensuring that the needs of larger commercial organisations are satisfactorily met. The Government, via HS2 Ltd, is committed to engaging directly with such businesses at the appropriate time.

Criterion 2. Location of property

- 3.6.8 The purpose of this criterion is to determine whether or not the property is on the Phase Two route or likely to be substantially adversely affected by either the construction or operation of the proposed line.
- 3.6.9 Some respondents argued for a fixed distance to apply to the EHS, however most favoured the lack of an outer limit and were concerned that such a fixed distance would limit applications to those impacted by the line's physical effects.
- 3.6.10 Proposals stated that distance from the line of route be taken into consideration when deciding on the application. We do not believe that it is appropriate to set a fixed outer distance in order to meet this criterion. This would not guarantee a fairer system of qualification as it would not take into account the very variable characteristics of the proposed line. A number of consultation respondents agreed that this was appropriate.
- 3.6.11 Further, drawing a boundary would in itself risk creating significant blight as it would suggest that the Government believed that all properties within that boundary were substantially adversely affected by Phase Two of HS2.
- 3.6.12 Other factors which will be taken into account include (but are not limited to) the contours of the land, surrounding features, the relative height of the railway in relation to the property and surrounding land, and the likely disruption to the property during construction.
- 3.6.13 The Government wants the panel assessing each application to have as much information as possible, so for the Phase Two scheme mapping software, publically available satellite imagery and aerial photographs, when these become available

following the Phase Two Line of Route consultation, (provided by HS2 Ltd) will be used to assist in considering applications under this criterion.

- 3.6.14 Applicants may also wish to include their own photographic, or other, evidence of the features of their property and the immediate vicinity to support their statements about the effects on the property.
- 3.6.15 In response to the consultation, 112 people raised concerns that those living above or close to bored tunnelled sections should be 'eligible' under criterion 2.
- 3.6.16 In relation to the location of property criterion anyone can apply to the scheme – there is no 'eligibility' in terms of a property's geographic location.
- 3.6.17 Properties will be considered in relation to surface or cut and cover tunnelled sections of the route only when addressing the location of property criterion. If a property is closest to a point of the line that would be in a deep bored tunnel, that respective point would not be considered; instead the distance and respective location of the property from the nearest tunnel portal or planned ventilation shaft would be considered the relevant factor. Hence, all surface construction and eventual infrastructure will be taken into consideration.
- 3.6.18 Other respondents to the consultation suggested that properties on construction access roads leading to the proposed Phase Two route should also be accepted under criterion 2. We confirm that this infrastructure will be taken into account. As explained above, no property is excluded from applying in relation to the location of property criterion.
- 3.6.19 The Government has not set a defined geographical distance from access roads, tunnel entrances, exits or associated infrastructure which would determine qualification under this criterion. The panel considering each case will determine qualification under criterion 2 on the basis of the evidence provided by the applicant and the materials provided by HS2 Ltd as set out above. All related infrastructure as proposed at that point will be taken into account.
- 3.6.20 Experience of Phase One applications shows that this criterion prompts applicants to provide important information on the situation of a property which is relevant to the overall consideration of the application.
- 3.6.21 Hardship schemes associated with other transport infrastructure projects include a location criterion. The Crossrail Hardship Scheme focused on the expected construction effects of the project and did not set a geographic boundary, leaving it to the discretion of the decision maker to consider the seriousness of the effects. The Phase Two EHS is, in fact, wider in scope as it considers the effect of the operation of the line as well as its construction.

Criterion 3. Effort to sell and the impact of blight

- 3.6.22 The purpose of this criterion is to determine whether it is the blight resulting from the proposed route of Phase Two rather than any other factor which is the reason why the property has not sold, or could not be sold other than at a substantially reduced value (blighted value).

- 3.6.23 Applicants will need to demonstrate that they have already made all reasonable efforts to sell their property within the current market conditions. For example, that it has been on the market for a minimum of three months with at least one recognised estate agent; and, that no offer had been received within 15% of a realistic un-blighted asking price as a direct result of the proposed Phase Two route.
- 3.6.24 Applicants will also need to demonstrate that their ability to sell their property had been substantially adversely affected by the proposed route for Phase Two of HS2, rather than other factors.
- 3.6.25 Some consultation respondents commented that a three month minimum marketing period would indeed provide sufficient opportunity for applicants to demonstrate whether or not there is a genuine interest in their property. Others, however, raised concerns that this period is too long, or that this criterion should be removed altogether.
- 3.6.26 Though some respondents to the consultation expressed a desire that demonstration of a 'need to sell' ought to be the only criterion for acceptance under the EHS, this would go far beyond what is expected under 'normal' market conditions, where there are no proposals for HS2. Under any circumstances a property owner would expect to have to make all reasonable efforts to sell, for example by marketing through an estate agent, in order to secure a sale. Criterion 3 is not, therefore, designed to generate additional effort for applicants over and above that which would be expected were there no plans for HS2.
- 3.6.27 Some respondents also suggested that it was inappropriate to include a requirement that there had been efforts to sell a property which would likely need to be demolished. Specifically, the cost implications of this requirement were questioned.
- 3.6.28 We feel that in order to demonstrate that it is necessary for the Government to step in and acquire a property it is only right that applicants first demonstrate all reasonable efforts to sell the property in the same way that they would if there were no plans for HS2. We believe that this is in the best interests of applicants, communities and taxpayers.
- 3.6.29 It is important to stress, however, that applicants are not expected to commission a chartered surveyor to value their property at any stage of the process. The Government will pay in full for an independent valuation of the property by chartered surveyors once an application is accepted in order to determine the purchase price offered.
- 3.6.30 We know that buyers and sellers often agree a price that is lower than the asking price – a long-term average of 12% below. 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.
- 3.6.31 Though we note that a number of consultation respondents expressed concern about this, it is a long standing approach used over the years 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. Our interest

in these figures does not mean we would expect an applicant to accept the blighted value of the property (i.e. the amount that the property is worth following the HS2 announcement).

- 3.6.32 The Government does 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. Therefore, refusal of a single low offer does not necessarily mean that the application will be automatically refused. Under such circumstances, panel members will use their discretion to determine the merits of an applicant's case.
- 3.6.33 We acknowledge the concerns raised during consultation that some estate agents are refusing to market properties which they deem to be affected by proposals for HS2, or that they are asking for up-front fees to be paid before they will undertake marketing activities. It is not the Government's role to determine estate agents' approach to property which may be affected by our proposals for HS2. However, evidence provided in an EHS application about an applicant's attempts to actively market their property will be carefully considered. In particular, evidence that a number of local agents have refused to market the property due to HS2.
- 3.6.34 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. The panel would expect the recognised estate agent to have experience marketing similar properties in the local area. This can include estate agents that do not have a physical presence in the local area, but which, for example, speak to potential viewers, collect feedback, provide a for-sale board, a floor plan or take professional photographs.
- 3.6.35 Given the variety of options available to sellers today for marketing their property, this criterion recognises that 'self marketing' might form part of an applicant's efforts to sell their property. This would include websites that allow users to upload details of their property themselves in the format of a listing to publicise its availability. However, it is unlikely that this sort of self marketing approach would be able to provide the same level and quality of evidence as a recognised estate agent.
- 3.6.36 What this criterion requires, as set out further below, is that information be included within an application regarding estate agents' marketing proposals and feedback from those who viewed, or chose not to view, the property in question. Self marketing efforts would not be ignored under this criterion, but the requirement under the EHS for marketing with at least one recognised agent still stands.

Criterion 4. No prior knowledge of Phase Two of HS2

- 3.6.37 The purpose of this criterion is to make sure that only those who purchased their property before the publication of the initial preferred route for Phase Two of HS2 are able to apply to the EHS.
- 3.6.38 An applicant would not be eligible for the Phase Two EHS if they bought their property at a time when they could reasonably have been expected to be aware of the Phase Two route.

- 3.6.39 A number of consultation responses raised concerns that this criterion crystallises blight by ensuring that no potential buyer would be eligible for the scheme in the future. We believe that in order to avoid abuse of the EHS by individuals offering a lower than market value in order to profit from a potential future sale to the Government, it is necessary for applicants to demonstrate 'no prior knowledge'. This protects the interests of both taxpayers and those looking to sell their property who have an urgent need to do so.
- 3.6.40 This does not, however, mean that statutory rights to compensation are affected. Indeed, those who bought their property after proposals for the line of route were announced would still be eligible to apply for 'Part 1' compensation and if in within the safeguarding zone, could submit a blight notice in the future or have their home compulsorily purchased following Royal Assent of the Hybrid Bill for Phase Two of HS2.
- 3.6.41 In response to the consultation, some respondents raised concerns that a clear date should be set from which this criterion would apply. Others, however, stated a concern that this criterion could unfairly disadvantage some property owners due to changes to the route over time.
- 3.6.42 The Government accepts both of these points. Applicants would normally be expected to demonstrate that they purchased their property before 28 January 2013, the date when the Secretary of State announced the initial preferred route for Phase Two of HS2. Following three months' operation of the scheme (i.e. from 18 October 2013 onwards), applications would be considered only in relation to the July 2013 consultation route. In instances where the purchase took place shortly after the relevant date, for example if the searches relating to the purchase of the property were done before this date but the purchase did not complete until after it, then we would take this into account when assessing an application.
- 3.6.43 Similarly, if there are circumstances where a property only came to be considered affected by HS2 at a later date, such as due to a realignment of the route, this will be taken into account and the date of 28 January 2013 would not necessarily be applied.

Criterion 5. Exceptional hardship

- 3.6.44 The purpose of this criterion is to determine whether the property owner is, or will soon be, in a situation of exceptional hardship which could only be alleviated by the sale of their property before the end of the Phase Two EHS.
- 3.6.45 Experience from operating the Phase One EHS has taught us that it is not particularly helpful to give a checklist of the reasons why people might apply to the scheme, as individual circumstances and their effects vary for each case. Exceptional hardship might originate from situations including, but not at all limited to, issues around: finances, health and disability, employment, family circumstances, domestic or care needs, a court settlement, or the winding up of the estate of a deceased person. Prospective applicants should not attempt to categorise themselves as fitting into one or more of these above examples.
- 3.6.46 Applicants should show that they have an urgent need to sell (not simply to move from) their property within the proposed lifetime of the scheme – i.e. that they would

suffer exceptional hardship if they had to wait until such time as statutory measures took effect or further discretionary schemes became operational.

- 3.6.47 This criterion, as proposed, was questioned by a number of consultation respondents, some of whom argued that it ought to be removed altogether, meaning that you would not have to demonstrate exceptional hardship in order to qualify for the Government to purchase your house. Others sought a change to the proposed scheme whereby property owners would receive assistance without the requirement for them to sell their property to the Government.
- 3.6.48 We must emphasise that the stated purpose of the scheme is to assist owner occupiers of property who have an urgent need to sell their property in order to escape or avoid exceptional hardship. As we have noted, this is designed as an interim scheme, and the Government will consider options for further, long-term, discretionary compensation for Phase Two of HS2 once the project has developed further, as it is doing for Phase One.
- 3.6.49 A number of consultation respondents highlighted that previous Government publications have used the words 'urgent' and 'pressing' interchangeably with respect to an applicants need to sell their property. For the sake of clarity, and in order to avoid confusion, from now on we will henceforth use the term 'urgently' in all instances. This does not affect the overall operation of the scheme.

3.7 How will these criteria be assessed?

- 3.7.1 While we ask that applicants provide evidence that they meet all five of the scheme criteria, the decision maker may exercise discretion in relation to any criterion if there is a strong case overall for an application to be accepted. This discretion is referred to as extenuating circumstances.
- 3.7.2 Further details on the requirements themselves, a download-able application form and how to ensure that an application is satisfactorily completed can be found in the application form and guidance document, available at: www.hs2.org.uk/phase-two/route-consultation/document-library.

3.8 Operation of the EHS

- 3.8.1 HS2 Ltd will administer the Phase Two Exceptional Hardship Scheme on behalf of the Secretary of State for Transport. The scheme will be run on the basis of paper applications. Applicants will not appear in person to present their case and those considering applications would not be able to visit the property or to meet applicants. We consider that the fairest and most equal assessment of EHS applications is possible through reliance on the strength of documentary evidence provided by applicants in support of their case and so as not to discriminate against those who would not be able to attend in person.
- 3.8.2 A majority independent panel will assess applications and make a recommendation to the Secretary of State for Transport on whether an application should be accepted or not. A senior civil servant 'decision maker' appointed by the Secretary of State will make the decision on each case, based on the recommendation of the panel.

- 3.8.3 Some respondents to the consultation expressed concern that the panel would not be sufficiently independent of HS2 Ltd or the Government and asked for clarity on the process for recruiting panel members.
- 3.8.4 Subject to the consultation process, and the Secretary of State deciding whether to proceed with the Phase Two EHS, HS2 Ltd and the Department for Transport looked to recruit potential panel members. This was principally to protect the interests of potential future applicants, and to ensure that if a decision to launch a scheme was taken, that scheme could accept EHS applications as soon as possible.
- 3.8.5 Advertisements for panel members were placed in national media, generating nearly 400 applications. A rigorous three-stage selection process was then undertaken to select the final pool of panel members. Independent recruitment specialists were procured to assist in the sifting and consideration of applications. Interviews and group exercises were then carried out to assess candidates in person. The pool of panel members has been confirmed, and includes individuals from a range of backgrounds and professions. Further details on the panel members is available at: www.hs2.org.uk.
- 3.8.6 The Government recognises that it is understandable for some respondents to suggest specialist professionals be appointed to each panel. However, it is impractical to operate a system that considers applications promptly yet has representatives from all potentially relevant fields present at each panel meeting.
- 3.8.7 Nor could we select a smaller number of experts. People in a wide range of circumstances apply to the EHS. It would be inappropriate and unfair to have experts in some areas while others fall outside the specific remit of anyone on the panel. Therefore, we have assembled a pool of panel members which comprises a range of informed laypeople drawn from a range of professional backgrounds.
- 3.8.8 Some respondents to the consultation expressed concern that the proposed procedure for assessing applications was unfair or unjust. A number felt that the panel should be entirely independent of the Government and HS2 Ltd. Given that the EHS is a discretionary scheme which will have a significant effect on individuals and communities, it is only right that the Government oversees its implementation. Furthermore, as the company tasked with designing and constructing the railway line, HS2 Ltd has detailed knowledge of the route itself, and has the unique ability to draw on dedicated specialist resources.
- 3.8.9 The ability of the panel to assess applications and produce fair, independent advice on each case is not impinged by this arrangement. This system is best placed to guarantee fairness for applicants, communities and taxpayers.
- 3.8.10 Successful applicants will have their property purchased by the Government at 100% of its un-blighted open market value. This value will be assessed using two independent valuers, chosen from a pool of Royal Institute of Chartered Surveyors qualified valuation firms who have expertise in the specific property type and coverage in the local area. One firm will be chosen by the applicant and the other by HS2 Ltd. The purchase price offered will be the average of the two valuations, subject to the results of surveys.

- 3.8.11 If the two valuations are more than 10% (of the higher valuation) apart from each other, a third valuation, chosen by the applicant, will be commissioned. The offer price is then taken as the average of the two closest of the three valuations. The Government will pay for these valuations.
- 3.8.12 Following the acceptance of an offer to purchase, the Government will pay for a building survey and any further related surveys or inspections, the conveyancing fees on behalf of the Government, a completion day check and an agreed fixtures and fittings list. The Government will not cover any of the costs normally incurred by the seller in a sale in the absence of HS2, as the scheme is designed for those who would be seeking to sell their property anyway.
- 3.8.13 Analysis of the consultation responses shows that some individuals have misgivings about the valuation process, whether in relation to the appointment of valuers, or the fairness of the valuation given the uncertain effects of proposals for HS2.
- 3.8.14 Regarding the valuers themselves, it would be impractical to appoint them afresh each time HS2 Ltd need to procure valuations. Instead, valuers must pre-qualify for this work and enter into an arrangement called a 'framework'. This process is undertaken in line with the Government's procurement standards. Valuers for specific pieces of work are chosen from those who are on the framework. We must stress that they remain independent of HS2 Ltd. Under the pre-qualification process, the independent RICS Registered valuers who make up the panel for the Phase Two EHS will be required to demonstrate that they have coverage in their respective areas along the route corridor.
- 3.8.15 RICS Registered valuers are expected to ensure they have the competence and professional knowledge to conduct and report valuations in accordance with the 'Red Book' manual of valuation standards. Bringing all the available information together to establish a professional opinion of value is part and parcel of the valuer's role. Thus, the valuation will reflect the value the property would have had were there no proposals for HS2. This includes taking into account market inflation, the property's state of repair and the state of the local property market at the time of valuation. We are confident that this system is the fairest means of undertaking valuations for the EHS.
- 3.8.16 Unsuccessful applicants will be given an explanation of why the application was refused. They are entitled to reapply to the scheme if there is a material change in their circumstances or if they are able to provide additional evidence which is related to the reason(s) their original application was refused. For example, further efforts to market the property or the provision of evidence that was highlighted by the previous decision as being required.
- 3.8.17 We have noted that some respondents to the consultation expressed concern over the independence of the re-application process, questioning whether or not it would be fair and proposing an independent appeals process. We strongly believe that the process of re-application is an effective way of asking the Government to look again at a case. As detailed above, once an application is refused, a letter outlining the reasons for this decision will be sent to the applicants.
- 3.8.18 The re-application process offers applicants the opportunity to respond directly by including any further supporting evidence or information for consideration. Rather

than simply appealing against the previous decision on the basis of the previous application and evidence, applicants can therefore supplement their application with new evidence.

- 3.8.19 The Government believes that it is only right that we should learn from the operation of the Phase One EHS in designing a scheme for Phase Two. Analysis of consultation responses supports this view. As a result, we propose to introduce a number of operational changes to the EHS, with the intention of making the application process easier and clearer, as well as enhancing the variety and quality of information available to panel members.
- 3.8.20 Among the changes, a streamlined process for re-application will be introduced. As outlined in the consultation document, re-applications which are submitted within six months of the original decision being communicated will (other than in extraordinary circumstances) be considered only against the criterion or criteria upon which the previous application was refused. This will be applicable where the applicant is able to confirm that their circumstances have not changed significantly in the intervening period or in a way that the previous decision would be affected. In relation to decisions on location, this will only apply where the route has not significantly changed since the previous application.
- 3.8.21 In another development from the Phase One scheme, panel members will be provided with Geographical Information Systems (mapping software) and photographs (including aerial photographs of the preferred line of route when these become available). These will be used to help the panel better understand the location of the property and the landscape within which it and the preferred line of route sit. Applicants will also be able to send in photos supporting their opinion on impacts of the railway.
- 3.8.22 As a response to concerns from Phase One EHS applicants regarding their original documentation, original versions of documents will now be verified and returned to the applicant as soon as possible after its receipt. The EHS Secretariat will contact applicants if they need to hold on to originals, for example if it is not possible to produce a clear copy of the document in question.
- 3.8.23 Further, the Government accepts that some successful applicants to the EHS may wish to rent their property back from the Government, once the sale is completed.
- 3.8.24 Having learned from the experience of operating an EHS for Phase One of HS2, we anticipate that there will be a small number of instances where individuals will wish to rent a property back from the Government after sale. We will therefore consider written requests from applicants ahead of completion on the sale of the property. This is not a specific scheme and is unrelated to proposals for a long-term discretionary 'sale and rent-back' scheme for Phase One of HS2 on which we have previously consulted.
- 3.8.25 Full details of how the Phase Two policy would operate are included in the Application and Guidance document available at: www.hs2.org.uk/phase-two/route-consultation/document-library.

3.9 Application and guidance

- 3.9.1 The Government realises that preparing an application to a scheme such as the EHS can sometimes be daunting. In fact, a number of responses to the consultation raised concerns over the potential complexity of the application process and the extent to which additional advice may be needed, either from HS2 Ltd or from an independent source. Furthermore, some respondents suggested that individuals could be put off by the application process itself.
- 3.9.2 With this in mind, we have published extensive guidance notes within the EHS application form. These notes are designed to assist individuals throughout the process of applying to the scheme, making it easier for property owners to complete a robust and comprehensive application without the need to pay for additional assistance from legal or property professionals. However, equally applications are entitled to enlist the assistance of whoever they wish. This option would be at the applicant's own expense.
- 3.9.3 The application form and guidance can be downloaded at: www.hs2.org.uk/phase-two/route-consultation/document-library.
- 3.9.4 Though we have tried to make our guidance as comprehensive and accessible as possible, we recognise that some applicants may require further assistance. Before you have submitted an application you can contact the public enquiries line at HS2 Ltd directly via e-mail at: hs2enquiries@hs2.org.uk or by phone at: 02079 444908.
- 3.9.5 Once you have submitted an application, the EHS Secretariat will be able to help you by telephone, email or letter. Your application will be acknowledged by this team as soon as it is received and details of your contact in that team will be provided to you at that point.

4 Next steps

4.1 Further Information

- 4.1.1 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.
- 4.1.2 That is why, should we take a view that further long-term discretionary compensation measures are required we will consult the public on our proposals.

5

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 either will not proceed with the purchase or, having learned of the planning proposals will only offer a lower price.

Blight Notice

A Blight Notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.

Crichel Down Rules

The Crichel Down Rules are non-statutory guidance dating originally 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 from them which has become surplus to the purpose for which it was 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 with Canary Wharf, Abbey Wood and Shenfield in the east.

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'. If you also own your home (either freehold or with a lease with more than 3 years still to run), you will be entitled to a sum 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. This applies to all eligible properties subject to compulsory purchase. If the interest is other than an owner's interest then the payment is a specified statutory 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.

Initial preferred route

On 28 January 2013, the Secretary of State for Transport announced an 'initial preferred route' for Phase Two of HS2. A public consultation on this route will take place during the second half of 2013. Subject to the outcome of this consultation, along with ongoing development work, the route could change in the future.

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 principle residence or place of business.

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 1973 Land Compensation Act 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.

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.

6 Annex A: Statutory measures

- 6.0.1 The existing law around compensation and blight is complex and based on both statute and case law. It reflects the large variety of circumstances for which the statutory system must cater. The Government believes that it is helpful to give an overview of the existing statutory system.
- 6.0.2 Set out below is a brief overview of how the statutory system works, who is eligible for compensation, and what they are likely to receive. This information is intended to be introductory only. Further information can be found in existing guidance produced by the Department for Communities and Local Government.
- 6.0.3 You can obtain copies of this guidance by calling this number: 0300 123 1124. Or by visiting: www.communities.gov.uk.

6.1 What can be claimed?

- 6.1.1 The type and level of compensation paid to land¹ owners should their land be required on a compulsory purchase will vary depending on their individual circumstances. However the categories of compensation (or 'Heads of Claim') paid to land owners are common across the system and are set out below:
- *The value of the land taken* – Meaning the un-blighted open market value of the owner's interest in the land taken. In other words the value of the land if there had been no plans for HS2;
 - *Severance and injurious affection* – Meaning compensation for the reduction in the value of any land retained by the property owner if only part of the land needs to be compulsorily purchased for the construction of Phase One;
 - *Disturbance* – Only available to the occupiers of properties, it means compensation for the additional costs and losses incurred as a result of being required to move from a property; and
 - *Fees* – Meaning compensation for reasonable surveyors' and/or solicitors' fees that may be incurred as a result of the land being compulsorily purchased.
- 6.1.2 Residential owner-occupiers (freehold or leasehold with at least three years remaining) whose property needs to be compulsorily purchased could therefore expect to receive:
- The un-blighted open market value of their property;
 - A home-loss payment (10% of the value of the property with a minimum payment of £4,700 and a current maximum of £47,000) if they have occupied the property as their main residence for a year or more; and
 - Reasonable moving costs (such as expenses for removing possessions, surveyor and legal fees and stamp duty on a new property of equivalent value).

¹ Compensation can be claimed by owners of land. The term land includes any property on that land (i.e. building, e.g. a home). Therefore the value of land would include the value of land including any building on that land.

6.1.3 It is very important to note that tenants and licensees who are displaced from their homes may also be eligible for home-loss payments as set out in section 29(4) of the Land Compensation Act 1973.

6.1.4 More information about compensation payments for residential properties can be found on the Government website at: <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-4-compensation-to-residential-owners-and-occupiers>

6.1.5 Commercial or agricultural land owners or occupiers are also entitled to claim compensation under the same categories or 'Heads of Claim' outlined above. However, compensation payments may differ to reflect the individual circumstances faced by commercial or agricultural land owners or occupiers. For example, in addition to the un-blighted open market value of their interest in any land taken:

- Commercial property owner-occupiers could receive payments to cover the relocation or total extinguishment of their business. Non-occupying landlords of commercial or residential properties could receive a loss payment of 7.5% of the value of their interest in the property up to a ceiling of £75,000.
- For agricultural property owners the un-blighted market value of the land taken will reflect future profits that could be expected to be made from farming. Agricultural tenants (depending on the type of tenancy held) could receive compensation for the termination of all or part of their tenancy as well as disturbance payments including an allowance for the sum an incoming tenant would have been expected to pay for items such as growing crops. A rent reorganisation payment of four times the rent of the land taken can also be made if only part of the holding is taken to help tenants reorganise their estate.

6.1.6 If only part of a property is required, all residential, commercial or agricultural property owners will receive the un-blighted open market value of the land taken plus any loss in value to the part retained; as set out above this is called 'severance'. If a significant part of the land is lost (such that the part remaining will be less useful or significantly less valuable) it is possible to request that the acquiring authority, which in the case of HS2 is the Government, purchase the whole of the property. This is called 'material detriment' and occurs if it can be demonstrated that buying a part of a property would have a serious impact on the part which remains; making it significantly less useful or valuable. If a dispute occurs, the issue will be resolved by the Lands Chamber of the Upper Tribunal.

More information about compensation payments for commercial and agricultural properties can be found on the Government website at:

Commercial:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-2-compensation-to-business-owners-and-occupiers>

Agricultural:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-3-compensation-to-agricultural-owners-and-occupiers>

6.2 When can compensation be claimed?

- 6.2.1 The Government intends to introduce a Hybrid Bill for Phase Two of HS2 providing compulsory purchase powers for HS2. Prior to the Bill's introduction, land either side of the proposed route will be 'safeguarded'. This means that applications for planning permission must be referred to HS2 to make sure that such development will not interfere with the construction or use of the railway. Once the Bill has obtained Royal Assent, in other words, once it has been enacted, the compulsory purchase powers under it will become available for HS2. A property owner whose property is wholly or partially within the safeguarded area may be eligible to serve a Blight Notice on the Government. A Blight Notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.
- 6.2.2 In order to qualify to serve a Blight Notice, property owners must be one of the following:
- A resident owner-occupier of a private dwelling (i.e. a freeholder or lessee with at least three years unexpired term) who has occupied the property for at least six continuous months of the last eighteen months;
 - An owner-occupier of any business property where the annual (rateable) value of the premises does not exceed £34,800 in the 2010 valuation list;
 - An owner-occupier of an agricultural unit with at least six months occupation of the whole or part; or
 - Certain mortgagees and personal representatives.
- 6.2.3 A Blight Notice is valid for three years and allows the property owner to require the Government to buy their property on compulsory purchase terms at any point within that time. Unless a counter notice is served a blight notice takes effect under statutory provisions and is deemed to be accepted and require the Government to but property. A Blight Notice may be served at any point after safeguarding directions are made. The Government may serve a Counter-Notice within two months if:
- No part of the property is within the safeguarding area;
 - The property is not needed to build or operate the railway;
 - Only part of the land is required to build and operate the railway;
 - On the date of the notice the property owner is ineligible, for example
 - because he/she has not shown all 'reasonable endeavours' to sell the property;
 - or the rateable value of the business is more than £34,800; or
 - The property owner's interest in the property does not qualify, e.g. if they are not a freeholder or lessee with at least three years left on the lease who has occupied the property for at least six continuous months of the last 18 months.
- 6.2.4 If a property owner does not agree with the decision to serve a Counter-Notice they may, within a period of two months, refer the matter to the Lands Chamber of the Upper Tribunal, who will determine the matter.

- 6.2.5 Property owners or occupiers whose property is required for the railway but who are not eligible to serve a Blight Notice or who choose not to do so will receive compensation if their property is acquired for the railway and will be required to move. However, particular properties may not be required until a considerable period after the Bill has received Royal Assent. During the preparation of the legislation, more detailed construction plans will be developed, which will give property owners a clearer indication of when their property will be required.

Useful website addresses

More information about compensation payments for residential properties can be found at: <https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-4-compensation-to-residential-owners-and-occupiers>

More information about compensation payments for commercial and agricultural properties can be found at:

Commercial:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-2-compensation-to-business-owners-and-occupiers>

Agricultural:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-3-compensation-to-agricultural-owners-and-occupiers>

6.3 Part 1 compensation payments

- 6.3.1 If a property is not needed for the line, but will be physically impacted (e.g. by increased noise, vibration or light pollution) the law allows owner occupiers of dwelling houses, small business premises and agricultural units to claim for loss of value to their property as a result of these factors. These payments (known as Part 1 payments after Part 1 of the Land Compensation Act 1973) can be claimed after the scheme or project has been open for one year (as it is only at this stage that the actual impact can be assessed).

6.4 The Crichel Down Rules

- 6.4.1 The 'Crichel Down Rules' apply when a property that is compulsorily purchased is later found not to be needed for construction or operation of the scheme for which it was bought. Broadly, under the Crichel Down Rules it has to be first offered to the former owner or their successors at the then current market value before an attempt is made to sell it on the open market.

6.5 Safeguarding

- 6.5.1 Safeguarding is the means by which the Government and HS2 Ltd are proposing to protect the land that is needed to build and operate the railway from conflicting development. The proposed boundaries of the safeguarded area for Phase Two of HS2 will be based on planning and engineering factors to ensure that the land required, as well as areas where developments or projects could have an impact on the railway, are included, based on current knowledge. This means that sites likely to be required for

access or areas identified as potential construction sites may also be included within the safeguarded area.

- 6.5.2 Following the consultation on the safeguarded area, the Secretary of State for Transport has now issued safeguarding directions for Phase One of HS2. This means that local authorities need to seek the views of HS2 Ltd when they receive a planning application for the development of land within the safeguarded area. HS2 Ltd will then assess whether the proposals could conflict with plans for the railway. The aim of safeguarding is not to prevent development in the area surrounding the line of route but to ensure that no conflict is created. This can often be achieved through the insertion of conditions on planning approval rather than outright rejection.
- 6.5.3 As well as protecting the land needed to build and operate the railway, the safeguarding directions also trigger what is known as 'statutory blight'. As described above this means that property owners within the area may be eligible to serve a Blight Notice asking the Government to buy their property prior to it being needed for construction.
- 6.5.4 It is important to note that the inclusion of a property in the safeguarded area does not necessarily mean that it will need to be compulsorily purchased or demolished to make way for the railway. It is also possible that additional property or land outside of the safeguarded area may be required as construction and engineering plans are further refined.
- 6.5.5 Statutory blight provisions are different from the Phase Two EHS. Some of the Phase Two EHS eligibility criteria would not apply within statutory measures; furthermore, some property owners may find that statutory measures are more appropriate to their situation. The EHS is designed to provide assistance to eligible property owners straight away, in the event that they have an urgent need to sell their property but cannot do so, other than at a significantly reduced price, due to proposals for Phase Two of HS2.



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