

<b>Title:</b> High Speed 2 - London to West Midlands Safeguarding update  <b>Lead department or agency:</b> Department for Transport <b>Other departments or agencies:</b> HS2 Ltd	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 24/05/2016		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Statutory		
<b>Contact for enquiries:</b> Szilvia Varadi (DfT), Ruth Newsum (HS2 Ltd), Ruth Bootland (DfT)			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion: Not Applicable</b>
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?	
£-0.43m	NQ	NQ	No	OUT

**What is the problem under consideration? Why is government intervention necessary?**  
 Construction of HS2 is not expected to commence until 2017. Safeguarding is a long established part of the planning process, which aims to ensure that new developments along the route do not impact on the ability to build or operate HS2. Unless safeguarding directions are put in place there is a higher risk that third parties may bring forward developments that will conflict with the operation and construction of HS2. This could lead to abortive investment for developers and increased costs or risks for the HS2 project. Also, not issuing updated safeguarding directions would mean that statutory blight processes would not be triggered meaning that statutory compensation for home-owners would not be available until after Royal Assent of the HS2 Bill under the compulsory purchase regime.

**What are the policy objectives and the intended effects?**  
 The policy objective is to safeguard the updated HS2 route and prevent conflicting development from being brought forward, whilst allowing development that does not conflict with the railway to progress. The intended effect would be that planning applications within the safeguarded zone would trigger an exercise of consultation with HS2 Ltd to ensure that interaction with the railway is considered in detail before planning permission is granted. This is an update to the IA published in 2014 to reflect the five additional provisions which have been made to the hybrid Bill that slightly change the safeguarding area.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Option 0; do nothing. This is the baseline option and could result in developments taking place that conflict with the railway, thereby potentially imposing costs on developers as well as HS2 Ltd.  
 Option 1; introduce an updated safeguarding zone, as set out in the relevant maps, either side of the London - West Midlands section of HS2. This zone is driven by HS2 Ltd's engineering and planning assessment of land where developments have the potential to impact on the construction or operation of HS2. Safeguarding directions will require Local Planning Authorities (LPAs) to consult HS2 Ltd on planning applications they received in relation to land within the zone. This provides certainty to developers and ensures that conflicting development is not pursued.

**Will the policy be reviewed?** Not applicable (Department for Communities and Local Government are responsible for safeguarding policy), **set review date:** Not applicable

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> 0		<b>Non-traded:</b> 0

**I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.**

Signed by the responsible Minister:  Date: 19/05/16

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Introduction of a safeguarding zone as set out in the maps accompanying the safeguarding directions

## FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years 11	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £-0.43m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0m	£0.05m	£0.43m

### Description and scale of key monetised costs by 'main affected groups'

Additional costs to the 29 LPAs who will have to assess whether planning applications should be referred to HS2 Ltd. It is important to note, however, that even without safeguarding LPAs would still want to take account of the impact of HS2 and this task would be more difficult without the clarity provided by safeguarding.

### Other key non-monetised costs by 'main affected groups'

Running costs reflecting the costs of maintaining properties in the condition required for Government to rent them once acquired have not been monetised as these precede this IA update and are considered to be sunk costs. Some administrative costs may be incurred by HS2 Ltd, but as these are thought to be small and difficult to quantify they have not been monetised. Here too the administrative costs of not safeguarding (i.e. Option 0) could well be much greater than Option 1.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

As with Option 0, we do not have the information to be able to monetise the benefits to HS2 Ltd and land-owners by bringing in safeguarding directions.

### Other key non-monetised benefits by 'main affected groups'

Safeguarding would protect land-owners from investing time and money in development plans which subsequently had to be abandoned because of a conflict with HS2. The key benefits are the removal of potential costs to developers (or, via compensation schemes, to the HS2 project) of investment in developments that are subsequently compulsorily purchased. Property owners within the safeguarded zone will receive statutory compensation earlier than without such safeguarding.

Key assumptions/sensitivities/risks

Discount rate

3.5%

Because safeguarding is fundamentally a planning and engineering decision, the assumptions/sensitivities/risks are those underpinning the broader decision to proceed with HS2. Further assumptions, sensitivities and risks are as set out in broader HS2 documentation available here: <http://hs2.org.uk/news-resources/engineering-documents>. It is assumed that the statutory timeframes for consideration of planning applications (eight weeks) apply whether safeguarding is in place or not

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: NQ	No	N/A
Benefits: NQ		
Net: NQ		

# Evidence Base (for summary sheets)

## Background

This impact assessment sets out evidence for the impact of the safeguarding directions for the HS2 line of route between London and the West Midlands following the petitions heard by the House of Commons Select Committee. Five additional provisions were included during this process, which closed on 22 February 2016.

The safeguarding zone typically reflects the land requirements set out in the London to West Midlands hybrid Bill including these additional provisions. The updated safeguarding zone is shown in the maps that are published alongside this impact assessment.

## Rationale for intervention

The rationale for intervention is to ensure that the land needed for the construction for HS2 is not developed further in a manner that would increase costs and risks to building the railway. It also ensures that affected land-owners have a faster path to receiving compensation under compulsory purchase terms for relevant properties within the safeguarded zone, ahead of compulsory purchase powers being secured through Royal Assent of the HS2 hybrid Bill. To protect the proposed alignment of a road or railway from conflicting development, the Secretary of State can issue a direction, known as a Safeguarding Direction, under articles 18(4), 31(1) and 34(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The safeguarding directions will be issued to LPAs by the Secretary of State for Transport. Those LPAs are then required to consult with HS2 Ltd when 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.

## Policy objective

The primary objective is to prevent development that would hamper HS2 Ltd's ability to build the London to West Midlands HS2 route or increase the costs or risks of doing so. Secondary objectives include minimising the administrative burden for LPAs and for land-owners along the line of route, and ensuring prompt access to compensation for relevant property owners.

## Updates following consultation

The most common element of costs that respondents to the consultation perceived to be missing from the consultation stage impact assessment was the cost to communities, businesses and other property owners due to blight. This included a mixture of impacts inside the safeguarded area, such as additional costs, risks or delays to developers (particularly those ineligible for purchase under statutory blight provisions) and the opportunity cost (i.e. the unrealised benefits) of alternative developments; as well as impacts outside the safeguarded area, such as difficulties for people obtaining financing, loss of property value, community disruption and other negative social or economic costs. However, it is difficult to separate the impacts of blight due to the route of the railway from the specific impact of introducing safeguarding. Some respondents noted that:

- a) it could make financing more difficult near to the safeguarded area
- b) it could inhibit owners' ability to let or develop their land
- c) it could lead to loss of jobs within the safeguarded area (including if business tenants decide to move away from affected areas)
- d) Government buying large numbers of properties in an area could damage community cohesion.

The Government considers that most of these costs are linked to the wider impacts of the blight surrounding HS2 and are not direct consequences of introducing safeguarding. Many of them existed to a greater or lesser degree in advance of safeguarding directions being introduced, so cannot be considered an impact of safeguarding. This Impact Assessment is designed to identify the *marginal* impact of introducing safeguarding directions. Rather than causing these impacts, it is considered more likely that safeguarding will serve to focus the blighting impact on the safeguarded area where statutory blight provisions will help to lessen the adverse impacts. By focussing impact on the affected area, there may be some benefits for those outside safeguarding, though this impact is likely to be mixed. It is therefore considered that the marginal impact on the wider HS2 blight situation of introducing safeguarding, as opposed to not safeguarding, is extremely difficult to quantify in any accurate way, but

that there is no case for assigning all of the additional costs identified to the decision to introduce safeguarding directions.

### **Description of options considered (including do minimum)**

#### **Option 0 - do nothing.**

This is the baseline option.

The main impact of not having safeguarding directions would be that the land needed for the construction and operation of HS2 could be developed further in a manner that would increase costs and risks to building the railway.

There would also be the administrative burden on HS2 Ltd to monitor planning applications made in relevant local authorities to determine whether it that would be necessary to object to them. In addition, there would be an additional administrative burden on LPAs which would be expected to consider whether HS2 was a relevant issue to consider in determining a planning application (whether HS2 Ltd objected or not).

There could be impacts for developers, who might invest in developments that would subsequently be subject to compulsory purchase and, in such cases, additional costs and risks for HS2 Ltd. There would also be an opportunity cost for property owners that would not be able to access statutory compensation until after Royal Assent of the HS2 Hybrid Bill. This is because “statutory blight” is only triggered once safeguarding directions are made. This could lead to individuals suffering financial loss if they were unable to access compensation for a significant length of time.

#### **Option 1 - Introduce a safeguarding directions (preferred option).**

Option 1, the preferred option following consultation, is to introduce the safeguarding zone as set out in the maps published alongside this impact assessment. HS2 Ltd recommends this zone having reviewed the evidence thoroughly, and is based on the land requirements set out in the London to West Midlands hybrid Bill.

HS2 Ltd considers the safeguarding zone to offer a balance between the need to protect land and property for construction and operational purposes, and the legitimate rights of land owners not to have their right to develop infringed unnecessarily. A narrower zone would run a significantly higher risk that some subsequent developments would interfere with HS2 Ltd's needs. A wider zone would place a greater restriction on development without significantly reducing the risks to the project.

### **Monetised and non-monetised costs and benefits of each option (including administrative burden)**

#### **Option 0 - do nothing**

This is the option against which option 1 is compared.

The main impact of not having safeguarding directions would be the administrative burden on HS2 Ltd to monitor planning applications made in relevant local authorities to determine whether it that would be necessary to object to them. In addition, there would be an additional administrative burden on LPAs which would be expected to consider whether HS2 was a relevant issue to consider in determining a planning application (whether HS2 Ltd objected or not).

There could be impacts for developers, who might invest in developments that would subsequently be subject to compulsory purchase and, in such cases, additional costs and risks for HS2 Ltd. There would also be an opportunity cost for property owners that would not be able to access statutory compensation until after Royal Assent of the HS2 hybrid Bill. This is because “statutory blight” is only triggered once safeguarding directions are made. This could lead to individuals suffering financial loss if they were unable to access compensation for a significant length of time.

#### **Option 1 - Introduce a safeguarding zone as shown in the maps published alongside the safeguarding directions**

##### **Costs**

The safeguarding directions would require LPAs to consult with HS2 Ltd when determining planning applications for land within the limits shown on the safeguarding plans that are attached to the safeguarding directions. Although some of this work would be likely to occur even in the absence of safeguarding (and indeed it is likely that LPAs would have to devote more resource to deal with the

uncertainty inevitable in a no-safeguarding world) the directions would place a small additional administrative burden on both LPAs and HS2 Ltd.

We have estimated the administrative costs to the 29 LPAs along the HS2 line of route. These administrative costs reflect the additional costs associated with the notification process for planning applications. These applications would happen at lower cost in the absence of safeguarding. The additional administrative cost results from the requirement for LPAs to consult with HS2 Ltd for each case. Though this process will become quite automated, these applicants are assumed to happen on one or two occasions per LPA per month.

At consultation stage our estimates were based on the assumption that 29 LPAs would need to employ on average equivalent to around 0.02 *additional* Full Time Equivalent (FTE) members of staff per annum to administrate claims for property development.

Some urban borough councils who responded to the consultation suggested that this average understates the likely costs to an urban borough. We have therefore attempted to reflect this more accurately by basing our estimate of costs on the Department for Communities and Local Government (DCLG) planning application statistics. The average number of planning applications relevant to safeguarding per hectare in the UK is around 0.03 per hectare (based on analysis of DCLG planning statistics <https://www.gov.uk/Government/statistical-data-sets/live-tables-on-planning-application-statistics> and local authority boundary records <http://www.lgbce.org.uk/records-and-resources/local-authorities-in-england>). In London Boroughs the figure is, on average, more than ten times higher.

The updated safeguarding zone along the London-Birmingham route is approximately 6,527 hectares. Of this around 302 hectares would be in London and 270 hectares would be in the Birmingham spur.

Based on the updated safeguarding requirement and assuming that planning applications in London occur at a rate of 0.5 per hectare, Birmingham at 0.2 per hectare and elsewhere at a rate of 0.05 per hectare (based on analysis of DCLG planning statistics). The total number of applications per annum within safeguarded areas has been assumed to be 150 in London, 55 in Birmingham and 300 elsewhere.

In the absence of better information we have assumed that safeguarding increases the time it takes for a local authority planning officer to deal with a planning application within the zone by three hours; such an estimate was not disputed by consultees. The planning officer would be responsible for assessing whether planning applications received related to land within the safeguarded area, consulting HS2 Ltd and addressing any queries raised by HS2 Ltd.

We have assumed that the average hourly basic pay of a local planning authority officer is £18 per hour based on analysis of the Annual Survey of Hours and Earnings and have up-rated this by 40% to allow for pensions, national insurance contributions and other overheads.

Table 1 below outlines the profile of staff administrative costs over time. The net present cost has been calculated using the HM Treasury Green Book discount rate of 3.5%. The costs have been assumed to apply right up to the year in which the scheme opens (up to 2026) although in practice safeguarding directions will be far less relevant in the latter years as construction will have finished.

**Table 1 - HS2 property administrative costs (2015 prices)**

Year	Applications			GDP growth*	Cost per hour	Total Cost
	London	Birmingham	Elsewhere			
2016	150	55	300	2.0	£26	£41,614
2017	150	55	300	2.2	£27	£42,530
2018	150	55	300	2.1	£28	£43,423
2019	150	55	300	2.1	£28	£44,335
2020	150	55	300	2.1	£29	£45,266
2021	150	55	300	2.4	£29	£46,352
2022	150	55	300	2.4	£30	£47,465
2023	150	55	300	2.4	£31	£48,604
2024	150	55	300	2.4	£32	£49,770
2025	150	55	300	2.5	£32	£51,015
2026	150	55	300	2.5	£33	£52,290
<b>Total (undiscounted)</b>						£512,664
<b>Net Present Value</b>						<b>£430,815</b>

A small number of responses to the consultation suggested that local planning authorities would incur cost in updating their Geographic Information System (GIS) to include the safeguarding area to determine whether planning applications should be referred to HS2 and for the purposes of issuing property searches for the property transactions. However, since keeping such systems up to date is assumed to be part of the normal ongoing work of such a department no amendment has been made to the cost estimates to reflect this.

Safeguarding directions also trigger ‘Statutory Blight’. This means that property owners within the safeguarded area may be eligible to serve a blight notice asking the Secretary of State for Transport to buy their property prior to it being needed for construction. Safeguarding directions may therefore result in earlier government property purchases than would otherwise be the case. Correspondingly, the 2014 High Speed 2 - London to West Midlands Safeguarding IA also monetised one-off and running costs reflecting the costs of early compulsory purchases of some properties. These included one-off and running costs related to maintaining them in a condition required for Government to rent them once acquired up until the point they need to be vacated (2016). As the current update to the safeguarding zone is carried out in 2016 and all of the intervening period pre-2015 costs associated with the early purchases are considered to be sunk costs no further costs are monetised here.

Considering this, Table 2 summarises the total costs estimated for safeguarding.

**Table 2 - Total costs of safeguarding (‘do something’) (Net Present Value, 2015 prices)**

Cost Element	Cost
LPA administrative costs	£0.43m
Running costs	£0.0m
Total costs	£0.43m

### *Benefits*

The benefits of safeguarding are that it will reduce the risk of developers potentially making investments in developments that subsequently cannot progress or have to be compulsorily purchased. Compulsory purchase rules include compensation for genuine development potential so safeguarding should not lead to landowners missing out on potential compensation.

We do not believe it is possible to estimate these benefits with any degree of accuracy as it is not possible to predict the level of potential development within the safeguarded area that the safeguarding directions might ultimately affect.

In addition, safeguarding increases certainty for LPAs, HS2 Ltd, and land-owners along the line of route. Safeguarding will minimise the disruption caused by HS2 to the planning process by giving land-owners a clear mechanism for establishing whether their development plans might come into conflict with the Government’s plans regarding HS2.

Safeguarding will also trigger statutory blight processes. This will allow eligible landowners; within the safeguarded area; access to compensation on compulsory purchase terms ahead of compulsory purchase powers being in place. Again, it is not possible to quantify the scale of this benefit to such property-owners as it will depend on their personal circumstances.

### **Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

Safeguarding is a long-established part of the planning system and one which offers protection both to the promoters of the infrastructure scheme and to the land-owners affected by it. The analysis carried out in this impact assessment is based on assumptions around planning application rates, number of

workhours required to assess applications, and hence estimated additional costs to LPAs and is considered to provide a proportionate approach.

### **Risks and assumptions**

There are no specific new risks and assumptions created by safeguarding. The risks linked to and the assumptions underpinning the broader HS2 project are extensively set out in HS2 documentation.

There are risks from not safeguarding in terms of increased costs. If there is a development on the land needed for HS2, HS2 Ltd would need to acquire that development or build round it which introduces risks for both HS2 Ltd and the developer.

Assumptions have been made about the following:

- The number of planning applications received by LPAs in various parts of the route post 2016 - These have been based on DCLG planning statistics from 2013 - at a rate of 0.5 per hectare, in Birmingham at 0.2 per hectare and elsewhere at a rate of 0.05 per hectare.
- The number of additional hours taken to process a planning application near the safeguarded zone to be 3 hours and the cost per hour of the officer to be £26 (and increased by GDP growth forecasts)

### **Direct costs and benefits to business calculations (following OITO methodology)**

We do not expect the introduction of safeguarding to introduce costs or benefits to business; the impacts are on local authorities and upon HS2 Ltd.

### **Wider impacts (consider the impacts of your proposals, the questions on pages 16 to 18 of the IA Toolkit are useful prompts. Document any relevant impact here and by attaching any relevant specific impact analysis (e.g. SME and equalities) in the annexes to this template)**

Safeguarding is a technical term for an established part of the planning system that protects large-scale infrastructure projects, such as roads or railways, from conflicting developments. It provides a statutory mechanism under the Town and Country Planning (Development Management Procedure) (England) Order 2010, by which Local Planning Authorities (LPAs) must consult High Speed Two (HS2) Ltd on new and undecided planning applications which fall within the safeguarded area and it provides HS2 Ltd with a statutory remit to comment on such applications. The Safeguarding Directions also put in place statutory blight provisions made under the Town and Country Planning Act 1990, whereby owner-occupiers of properties within the safeguarded area who want to move may apply to sell their property to the Government by serving a blight notice.

An equalities screening assessment has been carried out and is attached.

### **Post Implementation Review**

The Government has asked HS2 Ltd to keep safeguarding under review so that it can be reduced, removed or otherwise refreshed at periodic intervals where it is reasonable to do so. The Government believes it will be appropriate to ask HS2 Ltd to review the safeguarding of the scheme following key

milestones in the lifetime of the project - such as the completion of main construction works for each phase.

### **Summary and preferred option with description of implementation plan**

In order to protect the planned railway corridor from conflicting development before construction starts, the Government is safeguarding the London to West Midlands route using safeguarding directions, which are an established tool of the planning system designed for this purpose. Safeguarding aims to ensure that new developments along the route do not impact on the ability to build or operate HS2 or lead to excessive additional costs. Safeguarding directions will be issued to LPAs, by the Secretary of State. LPAs will then need to consult HS2 Ltd with regard to planning applications in the safeguarded corridor along the HS2 route before granting consent. LPAs are not bound to follow the recommendation made by HS2 Ltd.

### **Analytical Assurance Statement**

The level of analytical assurance for this analysis is **high**. The analysis has been conducted and peer reviewed by DfT analysts who have the appropriate skills required for this work. The inputs used to conduct the analysis have been sourced from published datasets or from experts, and have undergone consultation. Thus, they are the best available and the level of effort to obtain them has been proportional to the scale of the impact.