



HIGH SPEED TWO PHASE ONE INFORMATION PAPER

C2: RURAL LANDOWNERS AND OCCUPIERS GUIDE

This paper outlines the agricultural and rural land property matters which will be adopted for Phase One hybrid Bill of HS2.

It will be of particular interest to those potentially affected by the Government's proposals for high speed rail.

This paper was prepared in relation to the promotion of the Bill for Phase One of the scheme which is now enacted. Although the contents were maintained and updated as considered appropriate during the passage of the Bill (including shortly prior to the enactment of the Bill in February 2017) the contents are now historic and are no longer maintained.

If you have any queries about this paper or about how it might apply to you, please contact the HS2 Helpdesk in the first instance.

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1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in two phases: Phase One will connect London with Birmingham and the West Midlands and Phase Two will extend the route to Manchester, Leeds and beyond.
- 1.2. HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.3. In November 2013, HS2 Ltd deposited a hybrid Bill¹ with Parliament to seek powers for the construction and operation of Phase One of HS2 (sometimes referred to as 'the Proposed Scheme'). The Bill is the culmination of nearly six years of work, including an Environmental Impact Assessment (EIA), the results of which were reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs), which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.4. The Bill is being promoted through Parliament by the Secretary of State for Transport (the 'Promoter'). The Secretary of State will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill.
- 1.5. This body is known as the 'nominated undertaker'. There may well be more than one nominated undertaker – for example, HS2 Ltd could become the nominated undertaker for the main railway works, while Network Rail could become the nominated undertaker for works to an existing station such as Euston. But whoever they are, all nominated undertakers will be bound by the obligations contained in the Bill and the policies established in the EMRs.
- 1.6. These information papers have been produced to explain the commitments made in the Bill and the EMRs and how they will be applied to the design and construction of the Proposed Scheme. They also provide information about the Proposed Scheme itself, the powers contained in the Bill and how particular decisions about the project have been reached.

¹The High Speed Rail (London – West Midlands) Bill, hereafter 'the Bill'.

2. Overview

- 2.1. This information paper outlines the agricultural and rural land property matters which will be adopted for the Proposed Scheme. Some of the matters discussed are more fully covered in other documents, which are mentioned in the text.
- 2.2. Many site-specific concerns can only be resolved following Royal Assent of the hybrid Bill and development of the detailed design. The Promoter recognises that this may present difficulties for rural land owners and occupiers. The policies explained in this guide do not affect your statutory rights or rights under the Compensation Code.
- 2.3. The principles set out in this guide will be adhered to throughout the construction of the Proposed Scheme. Complaint and dispute resolution processes are noted in Section -8.7.

3. Land acquisition and Compensation Code

- 3.1. Powers to build and operate the Proposed Scheme are being sought in a hybrid Bill, which is currently being considered by Parliament. The Compulsory Purchase powers sought in the Bill will follow the principles of the Compensation Code, as used for other infrastructure schemes. References in this guide to the powers in the Bill are to the Bill when enacted.
- 3.2. The Secretary of State for Transport will exercise powers of compulsory purchase with the nominated undertaker acting as his agent. Land permanently required for the Proposed Scheme will be purchased. Where land is only temporarily required - for example, during the construction period - the nominated undertaker will discuss with the owner the temporary use of that land.

4. Communication with land owners and occupiers

- 4.1. It is recognised that good communication will assist all parties during the construction of the Proposed Scheme.
- 4.2. As set out in the draft Code of Construction Practice (CoCP), the nominated undertaker will therefore take reasonable steps to liaise with affected landowners, occupiers and agents, as appropriate. The nominated undertaker will require its contractors to:
 - advise landowners, occupiers and agents, as appropriate, regarding the intended commencement of construction works in areas of the site adjacent to agricultural and forestry holdings, and when any agricultural and forestry land used temporarily is intended to be returned to agricultural and forestry use;
 - advise landowners, occupiers and agents, as appropriate, regarding the provision of accommodation works; and
 - advise the programme of works and access routes to be used.

- 4.3. The arrangements described in the draft CoCP include a construction operations website and a 24-hour telephone helpline for enquiries about construction activities. This is also a first point of contact in the case of any emergency or an incident. It will also include a procedure for handling complaints and a complaint resolution system, as detailed from paragraph 8.7 onwards of this paper.
- 4.4. The Promoter has issued a Farmers and Growers Guide to explain the HS2 policies and approach to landowners and occupiers on agricultural matters. The Guide will be updated at regular intervals as the project develops.

5. Date of entry

- 5.1. The Bill provides for a minimum of three months' notice of entry to be given where land is to be acquired outright. A longer notice period will be provided where practicable.
- 5.2. The nominated undertaker will seek to be in regular communication with land owners during the construction of the Proposed Scheme and will seek to provide advice on the proposed timescale for the start and duration of works affecting their properties.

6. Construction activity

- 6.1. The construction activities will be controlled through provisions contained within the Bill and through a series of documents constituting the EMRs, to which the nominated undertaker will be bound. The Bill will also enable qualifying local authorities to exercise control over certain construction arrangements. See information papers B1 - The Main Provisions of the Planning Regime and E1 - Control of Environmental Impacts for more details about the EMRs.
- 6.2. The EMRs include the draft CoCP, which sets out a series of proposed measures and standards of work, to be applied by the nominated undertaker and its contractors throughout the construction period to provide:
- effective planning, management and control during construction to control potential impacts on people, businesses and the natural and historic environment; and
 - the mechanisms to engage with the local community and their representatives throughout the construction period.
- 6.3. Controls will be implemented to mitigate potential avoidable impacts on soils, farms, and farm-based businesses, including maintaining access, and for this purpose the nominated undertaker will:
- identify the farms and types of farms adjacent to the construction site;
 - identify watercourses and, where known, field drainage layouts and outfalls into watercourses or ditches, fixed irrigation pipes and sources of irrigation water and fixed water supplies for livestock;

- maintain details of the owners, occupiers and agents for land adjacent to the construction site; and
- maintain details of the husbandry associated with the areas of land adjacent to the construction site.

6.4. The controls will include the following, as appropriate:

- protecting agricultural land adjacent to the construction site, including provision and maintenance of appropriate stock-proof fencing and avoidance of traffic over the land that would lead to soil compaction;
- reinstating any agricultural land which is used temporarily during construction, where this is the agreed end use;
- detailing farm accesses which may be affected by construction, including the manner in which farm access will be maintained and avoidance of traffic over land which is used temporarily during construction; and
- providing a method statement for stripping, handling, storage and replacement of agricultural, forestry and woodland soils to reduce risks associated with soil degradation on areas of land to be returned to agriculture, forestry and woodland following construction. This will include any remediation measures necessary following completion of works.

6.5. In summary, the construction works will be carried out so as to manage dust, air pollution, odour and exhaust emission during the construction works in accordance with best practicable means. This will include good housekeeping procedures to limit dust and air pollution, monitoring activities and measures to control or mitigate the effect of potential nuisance caused by the construction works.

7. Measures to reduce potential impacts on agricultural, forestry and soil resources

7.1. Appropriate measures will be implemented, in accordance with the 'Code of practice for the sustainable use of soils on construction sites', in relation to undertaking works on or adjacent to agricultural and forestry land.

Generally

7.2. The requirements stated in Sections 6, 7 and 15 of the CoCP relating to the handling and storage of material, and Section 16 of the CoCP in relation to control of run-off, insofar as they are applicable to protecting soils, will be met. Additionally, the requirements stated in Section 7 of the CoCP in relation to control of dust, insofar as they are applicable to the protection of agricultural crops (including grass), will also be met.

7.3. The nominated undertaker will require its contractors to manage their site activities and working methods to protect the quality of surface water and groundwater resources from other adverse effects, including significant changes

to the hydrological regime through controls to manage the rate and volume of runoff. Monitoring systems will be employed during the construction works and emergency procedures in the case of any pollution incidents. Best practice measures will be used (e.g. through the use of silt traps and the re-use of water in wheel washers). Where required, the contractor will include arrangements to obtain appropriate approval for works from the relevant regulatory body or statutory undertaker, which could affect a surface water or groundwater resource.

- 7.4. The provision of on-site workers' temporary living accommodation in the Construction Compounds will be considered and approved in advance by the local authority and be managed in accordance with arrangements set out in that approval. The location of temporary living accommodation will be approved by the relevant local authority and be subject to the same environmental control measures as are set out in the CoCP for other construction works.
- 7.5. Generally, workers will not be allowed pets on site or in their on-site accommodation. The only dogs allowed on site (if at all) will be guide dogs or hearing dogs, security or detection dogs.

Agriculture, forestry and soils

- 7.6. Prior to works commencing, surveys will be undertaken to record agricultural and forestry soils disturbed for the Proposed Scheme. These surveys will include as appropriate:
- topsoil and subsoil, covering depth, texture and structure;
 - drainage, irrigation and water supplies;
 - roads, accesses and paths;
 - hedgerows, ditches, field boundaries and irrigation ponds; and
 - forestry, including individual trees and small woodlands.
- 7.7. Where land used temporarily for construction is to be reinstated to agricultural and forestry use, reinstatement works will be implemented in accordance with the contract specification and Department for Environment, Food and Rural Affairs (Defra) guidance where appropriate.
- 7.8. Reasonable precautions will be taken in relation to the handling and storage of agricultural and forestry soils, including the following, as appropriate:
- the separate handling and storage of different soils, particularly topsoils and subsoils;
 - handling soils that are in a suitably dry condition and not during wet weather to avoid long-term damage to soil structure from compaction;
 - seed or seal medium or long-term excavated material and soil stockpiles;
 - the prevention of soil contamination with chemicals or other materials; and

- the control of weeds on soil stores either through treatment or removal.
- 7.9. Reasonable precautions will be taken during the design and construction of the Proposed Scheme to identify, protect and maintain existing land drainage, irrigation and livestock water supply systems.
 - 7.10. The requirements of Section 9 of the CoCP in relation to measures to prevent the spread of invasive and non-native species will be met. Measures to prevent the spread of injurious weeds generally from the construction site to adjacent land will also be implemented.
 - 7.11. The nominated undertaker will require its contractors to comply with the relevant guidance issued by Defra regarding the prevention, as far as reasonably practicable, of the spread of soil-borne, crop and animal diseases. Appropriate measures, such as those described in Section 16 of the CoCP, will be implemented to control run-off to reduce any risks associated with disease transmission.
 - 7.12. Wherever reasonably practicable, the nominated undertaker will endeavour to identify recorded locations of carcass burial sites within the construction site and to mitigate risks associated with the existence of any unrecorded sites. This will include obtaining locations of recorded burial sites from the Animal and Plant Health Agency and the establishment of a protocol for procedures in the event that an unexpected/unrecorded burial site is discovered.
 - 7.13. Appropriately qualified environmental management staff, whose responsibility will include the monitoring of topsoil and subsoil stripping, handling, storage and replacement, as appropriate, will be appointed to facilitate compliance with this section of the CoCP in relation to soils.

8. Accommodation works

- 8.1. The provision of permanent accommodation works will depend on the individual circumstances on the holding and will usually be developed as the detailed design of the Proposed Scheme is undertaken. Accommodation works are taken to include accommodation bridges and access arrangements and will have regard to the commercial justification by the landowner, such as the value, use and location of the lands concerned.
- 8.2. The nominated undertaker will discuss with each landowner the provision and timing of accommodation works as part of the compensation package.
- 8.3. The structures of accommodation bridges, underpasses, culverts or sleeves over or under the Proposed Scheme will be maintained by the nominated undertaker. The maintenance of any surfaces or fences within will need to be determined on a case-by-case basis. The landowner will normally be responsible for any surface over which that landowner will have exclusive use.

- 8.4. During construction, the nominated undertaker will maintain access to the rural landowner's land under controlled conditions where necessary and practicable, and without prejudice to the landowner's rights to disturbance compensation.

Utilities

- 8.5. Where private utilities for a holding are affected by the proposed works, alternative services will be provided where practicable.
- 8.6. Where the public utilities for a holding are affected by the proposed works, except when agreed otherwise, alternative services will be installed before the existing service is disconnected.

Disputes

- 8.7. The CoCP will help to limit disturbance from construction sites and also to help to keep the number of complaints and claims to a minimum.
- 8.8. In the event of a claim, the landowner will have access to the Small Claims Scheme and the Construction Commissioner procedures which will be available to assist in reaching a resolution. These policies and measures are not a substitute for the normal legal remedies open to a claimant, but are expected to allow claims to be handled less formally and more quickly than would otherwise be possible.

9. Discretionary property schemes

- 9.1. In addition to the statutory processes that relate to the safeguarded area, property owners inside and out of this area may be eligible for one of a few schemes, depending on the distance of the land or property from the planned route. These schemes are discretionary policies, formulated specifically for properties affected by HS2. They include property purchase schemes and cash payment schemes. Property owners may have more than one option available to them.
- 9.2. Please see information paper C4 – Information for Property Owners or search for the 'Guide to HS2 Property Schemes' at www.gov.uk/government/publications/hs2-property-schemes-between-london-and-the-west-midlands for further information.

Small Claims Scheme

- 9.3. Following Royal Assent of the Bill, the nominated undertaker will establish a small claims procedure to provide a positive and clear mechanism for minor, construction-related, residential, business or agricultural claims, up to an initial figure of £10,000 and periodically subject to review.
- 9.4. If a member of the public considers that he or she has a claim for physical damage arising from construction-related activity, the claimant would first address the claim to the person identified as the point of contact. If immediate action cannot be taken to resolve or settle the small claim, it would be passed to a Small Claims Administrator for resolution and settlement.

- 9.5. The Small Claims Administrator would be responsible for investigating the claim, setting up a meeting with the claimant to discuss the claim, deciding whether the claim is warranted, assessing the damage and arranging payment to the claimant.
- 9.6. It is hoped that any claim could be successfully dealt with in this manner. However, if a claim cannot be resolved satisfactorily, the claimant will be able to write to the Construction Commissioner requesting resolution and settlement.

Construction Commissioner

- 9.7. An independent Construction Commissioner will be appointed by the Promoter to provide an independent arbitration service for the complaints process detailed above.
- 9.8. The primary role of the commissioner will be to help resolve complaints about damage or problems caused by construction activity associated with the Proposed Scheme. It is envisaged that the commissioner will act primarily as a last resort intermediary when other avenues have failed.

Third-party claims

- 9.9. The general legal position regarding third-party claims for the Proposed Scheme is not significantly different from that applying to other public works (e.g. highway schemes). However, the introduction of the small claims procedure is expected to facilitate prompt resolution of claims.

10. More information

- 10.1. More detail on the Bill and related documents can be found at www.gov.uk/HS2
- 10.2. In May 2016, HS2 published a Guide for Farmers and Growers which explains HS2's proposed policy in relation to agricultural property matters, principally up to the point of entry. This Guide can be found at:
<https://www.gov.uk/government/publications/hs2-guide-for-farmers-and-growers>