

HS2 Residents' Commissioner

Report 9 – May 2018



Summary

This year has got off to a busy start with land acquisitions increasing in preparation for Phase One work to begin, the Phase 2a Hybrid bill reaching its House of Commons Select Committee hearing stage, and work beginning on the Phase 2b Draft Environmental Statement, which is due to be published later this year.

My focus remains on the property schemes, both discretionary and statutory, and on community engagement communications, with the emphasis on improving these areas wherever possible.

My recent actions include:

- An investigation into the experience of property schemes users to better understand the types of issues that lead to complaints
- Working with the Department for Transport (DfT) and HS2 Ltd on the proposed policy changes to the discretionary property schemes and the introduction of the prolonged disturbance compensation scheme
- Attendance at Phase One community engagement events

Property schemes

I continue to monitor the property schemes and have been in discussion with the Government about how these could be improved as part of the ongoing Government reviews.

So far, 825 properties have been acquired by HS2 Ltd on behalf of the DfT under different property schemes.

Phase One, Phase 2a and Phase 2b: Express Purchase Zone

This applies to some properties in the surface safeguarded area.

All those affected who may be eligible should already be aware of their entitlement. People who live in this area and satisfy residency requirements can serve a blight notice on the Government.

As of 30 April 2018, 635 blight notices have been accepted, and a further 15 are being assessed. Over 400 applications from Phase 2b have been received although no construction work in this phase is expected to begin before 2023.

Express Purchase Guidance

Express Purchase will continue to operate until the HS2 programme requires properties to be acquired. Property acquisitions on Phase One are increasingly taking place under the Compulsory Purchase Order process. Early and continuous engagement with affected residents is the most effective way of ensuring that the process is carried out as calmly and smoothly as possible. Early issues with Advance Payments are being resolved, however as with most processes this a two way process which requires the correct and timely service of accurate documentation from residents' agents as well as a timely response from HS2 Ltd. I am pleased that the new Express Purchase Guidance has been issued, and I would urge anyone potentially affected to read this document carefully and note the timelines given. Express Purchase is a misleading term – there are a significant number of stages to go through before HS2 Ltd can acquire a property, and the process can be very drawn out, leading to frustration on the part of applicants.

The new guidance can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712127/Selling_your_home_-_Statutory_Blight.pdf

Alternative Dispute Resolution

I am also pleased that information on Alternative Dispute Resolution has been published. It has been difficult for applicants to get information about their options, should negotiations over the value of their property or their disturbance claim stall. This booklet sets out the three options that may be available without having to go to the Upper Lands Tribunal. This will hopefully lead to quicker and less costly outcomes.

The new guidance on Alternative Dispute Resolution can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712135/Alternative_Dispute_Resolution.pdf

Phase One and Phase 2a: Rural Support Zone

This is the area outside the surface safeguarded area and up to 120m from the centreline of the new railway in rural areas.

As of 30 April 2018, a total of 431 Rural Support Zone applications had been received, of which 325 have been accepted and 89 are being assessed. The majority of applications – 305 - have come from Phase 2b. The team are processing these as quickly as possible and so far this has not caused any significant issues. Around 25% of Phase 2b applications have opted for the new desktop valuation process, which has led to an improved completion rate for those homeowners.

Phase One, Phase 2a and Phase 2b: Need to Sell

The scheme is open to owner-occupiers who can demonstrate that they have a compelling reason to sell their property but have not been able to do so – other than at a substantially reduced price – as a direct result of the announcement of the HS2 route.

As of 30 April 2018, 631 Need to Sell scheme applications had been received. 234 of these have been accepted and a further 74 are waiting for a decision, a significant improvement on the number of outstanding applications from the previous quarter. The Need to Sell scheme has now been operating in Phase 2b for

more than 12 months. It is disappointing that the acceptance rate remains low at about 31%, particularly when compared with acceptance rates on applications from Phase One and 2a which currently average 56%.

HS2 Ltd is looking into these statistics to understand the variances. There is one issue that stands out: In Phase 2b, more than half of all applicants whose cases have been determined by the Panel, have failed on the Effort to Sell criteria.

This criteria requires the applicant to show that they have made a reasonable effort to sell their property and that the reason it has not sold is because of HS2 and not for any other reason. To show this, applicants need to:

- Show they have gone to three different estate agents for a market appraisal on their property.
- Put their property on the market for at least 3 months with a recognised estate agency
- Show that they have made reasonable efforts to sell by trying different marketing prices and ways of marketing their property.

Of the applicants who failed on Effort to Sell, more than 40% met Criteria 5 demonstrating a Compelling Reason to Sell. A number of these will have reapplied to the Need to Sell scheme and have been successful subsequently, however this does demonstrate that criteria 5, Compelling Reason to Sell, is not the primary reason for applications being unsuccessful. Additional work is required to understand the reasons as to why the Effort to Sell criteria is not being met.

Further work also needs to be done to improve accessibility to the scheme. It is intended that the new Youtube video clips will be shown at all future general engagement events. In addition, where acceptance rates are particularly concerning, a separate workshop on the Need to Sell scheme can be held, often in conjunction with the MP's office. This has already occurred in Eddisbury where two workshops were held and attended by approximately 40 interested parties.

Homeowner Payments scheme: Phase One

This applies to owner-occupiers of properties within 300m of the centreline for the Phase One railway following the grant of Royal Assent.

Uptake of the Homeowner Payment scheme has been good. As of 30 April 2018, 739 applications had been received. 654 of these have been accepted and a further 32 are in progress. Over 615 applicants have now received their payments and the administration of the scheme appears to be working extremely well.

Property schemes – general

Review of the non-statutory property schemes

Following discussions with the DfT, I understand that the review of the non-statutory property schemes is underway and is now on track for the autumn.

As part of this review, the Government committed to revisit whether a property bond could be reconsidered and form part of the suite of discretionary property schemes already being offered. A technical consultation on the proposal for the property bond has been launched and can be found at

<https://www.gov.uk/government/consultations/hs2-property-price-support-scheme-technical-consultation>

In addition, a qualitative study relating to community cohesion is underway, to better understand the reasons for an individual remaining in a community. Other elements of the various discretionary schemes are also under review, and a report on the Review is expected by the autumn.

Statutory Schemes and Express Purchase

I am pleased that having raised the issue in my last two reports, HS2 Ltd has now published a booklet to help homeowners who qualify for the Express Purchase scheme. It provides clear guidance on the steps that need to be taken before a property can be acquired under this scheme and information on the approximate timeframes involved. However, as it is a negotiation process requiring cooperation from both parties and their agents, the timelines are only there as a guide.

I have asked HS2 Ltd to keep this under review and to add to the FAQ section on an ongoing basis to provide additional information.

Recommendation

HS2 should review all Guidance booklets for discretionary schemes, including Express Purchase, on an annual basis.

Compulsory Purchase

As a result of correspondence I have received, I am concerned that in some areas, information and advice given by some property agents to those who are intending to serve a blight notice is lacking. Compulsory purchase is a specialised area within the chartered surveying profession and not all surveyors will have practical and appropriate experience in this field. Surveyors advising those affected by HS2 should be able to demonstrate recent and relevant experience in this field. The Royal Institution of Chartered Surveyors (RICS) have produced a Practice Statement for all those surveyors offering advice on compulsory purchase matters, and those individuals affected should ensure that their agent is adhering to this Practice Statement.

To support those affected by compulsory purchase, the RICS offers a telephone helpline to put any individual in contact with a surveyor in their area for a free 30-minute telephone consultation on compulsory purchase matters. Given that HS2 will have the largest area of compulsory purchase ever undertaken in the UK, I believe it is incumbent upon the company to offer more direct support to those affected.

Recommendation

That HS2 Ltd should consider appointing an independent third party to provide specialist telephone advice to applicants considering serving a blight notice.

Learning from the past experience of applicants

Following the recommendation made in my previous report, I will be engaging with those homeowners who have already sold their properties to HS2 Ltd under any of the property schemes. This will help me to gain a better understanding of the issues that homeowners face. Any general themes can be used to inform HS2 Ltd and the DfT and to improve performance of both HS2 Ltd and their agents.

When considering the correspondence sent to me over the past 12 months, the area that has given rise to most concern has been the experience of applicants to the Express Purchase scheme, especially on Phase 2b. The team has been under resourced and this has impacted on the level of case worker support to applicants, which they need and deserve. Equally, there has been some variation in the level of service offered by third party agents

appointed by HS2 Ltd to undertake valuations, negotiations and acquisitions. Better scrutiny by HS2 Ltd of its third party agents would improve consistency and give a better outcome for applicants.

Recommendation

HS2 Ltd should ensure appropriate levels of case workers for all applicants to the blight and discretionary schemes.

The Prolonged Disturbance Scheme (also known as the Urban Compensation scheme)

During the passage of the Phase One Bill through Parliament, the House of Lords Select Committee recommended the provision of improved compensation to households in close proximity to prolonged HS2 construction activity.

HS2 Ltd has been developing a scheme for some time in order to deliver on this recommendation. I am pleased to say that they are now in a position to provide an opportunity to engage with residents on the draft scheme, in collaboration with Phase One local authorities. This is being timed prior to the scheme being finalised and opened for applications, ahead of the start of the main construction works.

This is positive news as it will give people a better understanding of the scheme and allow them to provide feedback on it before it is finalised. The scheme will then be formalised and open for applications before the main construction works begin.

Settlement Deeds

In Information Paper E23, and the more user friendly Guide to Settlement, HS2 refers to the impact that tunnelling will have on property from the construction of the tunnels and the operation of the trains. The paper sets out the Company's approach to monitoring and measuring any settlement that may occur, the mitigation measures it will take to minimise any impacts, and the legal Deed it is offering to homeowners. It should be noted that a Deed is not a requirement for a homeowner to benefit from the mitigation measures.

The Information Paper is prescriptive in the dates by which a homeowner must apply for a Deed before the tunnelling work starts.

Work has now begun to establish how the Information Paper commitments can be put into practice and it is intended that the current Guide to Settlement will be updated shortly. The current Guide can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/461622/CS377_Guide_to_Settlement_V4_Web.pdf

At present, the onus is on the homeowner to find out about what is available, register their interest and apply for a Deed. I am concerned that those in the community who may need additional help due to language barriers, or for other accessibility reasons, will not be aware of their entitlement.

Recommendation

HS2 Ltd needs to ensure that all those who are entitled to apply for a Settlement Deed are made aware of the process and, where necessary, are offered appropriate support to ensure that they do not miss out on this provision.

Community Engagement communications

The Phase One Commonplace websites such as HS2inCamden have now been completed and launched and discussions have commenced on similar websites for the other phases of the project.

In addition, HS2 Ltd has recently been trialling its new website <https://www.hs2.org.uk> This is currently running alongside the gov.uk website but in due course will replace it entirely. The new website is more interactive and easier to search. I urge you to take a look and provide feedback to help HS2 make further improvements.

I was heartened by Mark Thurston's comments in his response to my last report recognising those who need additional support and who do not have access to the internet. However, this is a point that I have been making for the past three years and I am still not clear on HS2 Ltd's plan to address this.

There are numerous individuals directly affected by the HS2 line of route who do not have access to the internet and cannot make use of these platforms. More needs to be done to identify these individuals - many of whom may be vulnerable - and support them through the construction phase of the programme.

Next steps

I will be attending a number of engagement events in the next quarter, across all three phases of the route.

My focus will remain on the review of the property schemes and I welcome correspondence from those directly affected by this or any other policy anomalies that should be addressed as part of the DfT policy review.

My email address is residentscommissioner@hs2.org.uk or please write to me at: High Speed Two (HS2 Ltd), Two Snowhill, Snow Hill Queensway, Birmingham, B4 6GA.

www.hs2.org.uk

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