

HS2 Residents' Commissioner

Report 11 – April 2019



Summary

Since my last report, additional provisions have been submitted in the Phase 2a hybrid Bill; new designs on the Phase One key design elements have been published in the proposals for Old Oak Common; and route information events have taken place on Phase 2b following the publication of the working draft of the Environmental Statement.

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. In particular this report will focus on the user experiences of the discretionary property schemes and the recommendations arising to improve the schemes for future users.

My recent actions include:

- Taking feedback from a number of users of the property schemes to understand their first-hand experiences
- Working with the Department for Transport (DfT) and HS2 Ltd on the implementation of the proposed policy for the Prolonged Disturbance Compensation Scheme, which is still outstanding;
- Attendance at community engagement events across all phases along the route.

The property schemes

I have continued to monitor the discretionary schemes and to look for ways in which to improve their accessibility to those who qualify for them.

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

The Express Purchase (EP) zone 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 28 February 2019, 701 blight notices have been accepted, and a further 8 are being assessed. More than 490 applications from Phase 2b have been received, although no construction work in this phase is expected to commence before 2023 at the earliest.

Express Purchase

Express Purchase will continue to operate until the HS2 programme requires properties to be acquired. Property acquisitions on Phase One are taking place in increasing numbers under the Compulsory Purchase Order process. Early and continual engagement with affected residents is the most effective way of ensuring that the process is carried out as calmly and smoothly as possible.

During 2019, HS2 Ltd will undertake a review of all the guidance documentation and publish the updated documents. In due course, this will include more information on the Compulsory Purchase Order process.

Phase One and Phase 2a: Rural Support Zone

The Rural Support Zone (RSZ) is the area outside the surface safeguarded area and up to 120m from the centreline of the new railway in rural areas.

As of 28 February 2019, 644 applications had been received, of which 524 have been accepted and 58 are being assessed. Of these, the majority (498 to date) continue to come from Phase 2b. On average, applicants will receive a decision on their application

within 28 working days and are then able to make their own plans accordingly.

Desktop valuations for Phase 2b applications where the applicant is intending to opt for the cash offer are now exceeding 40%. This has significantly improved the completion times for those owner-occupiers.

In addition, there has been a small improvement in the average time taken from the point at which an applicant opts for acquisition to the point at which there is an exchange of contracts to purchase the property. In September 2018 this was about 19 weeks, but since then the conveyancing period has been reduced by 2 weeks, so that the average time now stands at 17 weeks. Note that the guidance booklets anticipate that the process should take on average 13 weeks. The team continues to look for ways to streamline the process.

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

The Need to Sell (NTS) 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 28 February 2019, 780 applications had been received, of which 280 have been accepted and 82 are waiting for a decision.

Take-up of the scheme remains steady across all phases along the route although there continue to be issues around the supporting evidence provided in the Phase 2b applications. As an evidenced-based scheme, the need to provide the appropriate and complete evidence cannot be stated too strongly. Without this, an application is almost bound to fail; therefore providing all the evidence required by HS2 Ltd in support of an application is vital.

Phase One: Homeowner Payments

The Homeowner Payments (HOP) scheme was introduced in March 2017 for owner-occupiers of properties within 300m of the centreline for the Phase One route, following the grant of Royal Assent for Phase One.

Uptake of the scheme has been good and, as of 28 February 2019, 837 applications had been received, of which 713 have been accepted and 59 are in progress. More than 680 applicants have now received their payments. There has been a consistent take-up

along the line of Phase One with applications from along the full length of the HOP zone.

Property schemes – general

Non-statutory property schemes review

This was published in the autumn of 2018. It made some small changes to the schemes; however, there were no substantive policy changes.

DfT continues to investigate whether a property bond scheme would be appropriate and operable for any part of the HS2 route. A further report is awaited on its findings.

User experience

I have recently completed a survey of those homeowners who have already sold their properties to HS2 Ltd under the discretionary property schemes. I am most grateful to all those who shared their experiences and made helpful and positive suggestions on what could be done to improve the process for future users.

More than 40 users of the schemes agreed to take part and have given feedback on their thoughts, experiences and suggestions. There were a number of very positive aspects to the schemes, especially from those who used them in 2017 and 2018. The themes considered were:

- The information provided on each of the schemes
- The overall process from application to completion
- The support which HS2 Ltd offered to applicants
- The interactions of third-party agencies contracted by HS2 Ltd during the process
- The conveyancing process, as this was the only common process shared by all scheme users.

The findings from this exercise varied, as expected. The following is a brief outline, together with the recommendations I am making under each theme.

1 Information

The information provided under each scheme was generally felt to be helpful, albeit lengthy and complex to follow. A significant number of applicants sought assistance from the office of their local MP for help and reassurance before submitting their applications, especially on the NTS and RSZ schemes. It was always intended that, for both NTS and RSZ, no external assistance would be required in order to make an application;

however, it appears from user experiences that some individuals are still finding the documentation too complex.

Recommendations

I recommend that:

- HS2 Ltd should strive to achieve the Crystal Mark for Plain English, or a similar accreditation, on its property scheme guidance material, as has been recently achieved on the HS2 complaints leaflet.
- The website should be restructured for the property schemes to make it easier to navigate and use. As an example, all documentation relating to the EP scheme should be available under that heading.
- HS2 Ltd should make more opportunities available for any directly affected property owners to discuss their individual cases with HS2 Land and Property. This level of assistance was offered in the autumn of 2018 when engagement events were held to support the publication of the working draft of the Environmental Statement on Phase 2b, and in a limited number of other locations along the line of route. These 1:1 sessions need to be made more widely available to help property owners make the right decisions, bearing in mind that construction on Phase 2b will not commence before 2023 at the earliest.

2 Process

The overall length of time for the acquisition process to be completed varied substantially, depending on the scheme.

However, almost without exception, the length of time exceeded the applicant's expectations. One of the key issues was that applicants frequently had no idea of where they were in the process, or what steps remained, making it extremely difficult to plan any related purchase. A tracking system, similar to that used by parcel companies, would help applicants to know which stage their application had reached, and which steps remained.

Separately, the EP scheme received extensive criticism because of the length of time it takes for a property to be negotiated and acquired. On average, it takes more than 2 years from the point at which a blight notice has been accepted. This discretionary scheme is based upon the statutory blight scheme, although it has been amended to remove one of the key requirements of the statutory blight scheme. It should therefore be possible to review the EP scheme to identify whether an option for a more streamlined valuation process, similar to that for the NTS and RSZ schemes, could be offered.

Recommendations

I recommend that:

- HS2 Ltd should investigate whether any IT could be introduced to track the progress of applications by users.
- HS2 Ltd should consider whether a streamlined valuation process could be offered to applicants of the EP scheme.

3 Support

There are many very helpful and empathetic case officers and other frontline staff within HS2 Ltd. These people make a very considerable difference to the perception of the users of the HS2 property schemes and to their experience. Whilst the users may not be supportive of the project, they feel that their views have been considered, and that they have been treated with respect, dignity and understanding.

As in any large organisation, there are a small number of HS2 staff who show less compassion, or who feel bound to remain rigidly within the documented process. Such staff only respond by directing the applicants to the published guidance, rather than helping the applicants to address their queries.

In addition, the primary contact for the applicants, usually an HS2 case officer, does not retain active responsibility for the case through to its conclusion. It usually transfers to a third-party acquisition agent to manage the process to completion, once the valuation has been agreed. For the applicant therefore, there is no continuity and no one to ask if matters start going wrong. HS2 Ltd should retain active ownership of all cases until completion.

Recommendations

I recommend that:

- All HS2 Land and Property staff who are primary contacts for applicants should receive appropriate customer-facing training to support all applicants through the acquisition process for the property schemes.
- All primary contacts should retain pro-active management of their cases until completion.

4 Third-party agencies

Similarly, the attitude displayed by third-party agencies, such as HS2-appointed valuers and building surveyors, impacts upon the user experience of the schemes. Positive interaction with the scheme users helps significantly in the overall experience. For the

scheme users, none of them would have chosen to participate in an HS2 scheme, given the option. For them, it was a last resort to resolving a situation where they were unable to sell their property on the open market. The professionals brought in by HS2 Ltd need to reflect this feeling in their attitude to the scheme users, and to provide timely and accurate reports to enable the process to complete quickly.

For example, on the NTS and RSZ schemes, independent valuations are undertaken by valuers accredited by the Royal Institution of Chartered Surveyors (RICS) on the unblighted open market value of the property. The guidance booklet for the RSZ scheme states that it should take approximately 4 weeks for an applicant to receive an offer after they have appointed their valuer. However, the user experience suggests that this guidance is regularly breached.

Recommendation

HS2 Ltd should publish expected performance guidelines for all standard elements of its acquisition process, including initial valuation reports and property building surveys, and actively monitor its agents' performance against these indicators.

5 Conveyancing process

One element shared by all those participating in one or other of the discretionary schemes is the conveyancing process. In the majority of cases, this was criticised for being unduly pedantic and lengthier than for a "standard" conveyance (that is, a property not being acquired by the government), with built-in extended time periods for authorisations. In short, the process for purchasing property which HS2 Ltd must follow to comply with the requirements of the government is not well understood.

This has led to frustration on the part of users as related purchases are potentially impacted by the lengthy time periods involved. Also, users are unable to speak to HS2's solicitors, who are bound by professional conduct rules, making users reliant upon their own solicitors for information.

Recommendations

I recommend that:

- HS2 Ltd should publish the steps required within the conveyancing process so that those using the schemes are aware of the requirements and can plan their related purchases accordingly.
- HS2 Ltd's primary contact with the applicants should communicate proactively and regularly with the users

to keep them apprised of the process and help them to manage their requirements on completion dates.

I have met with the appropriate Land and Property teams to discuss the key areas of concern raised by the survey and to explore ways in which the user experience can be improved. I will be following this up with the teams, and also surveying those who have recently completed the sale of their properties to HS2 Ltd under one of the schemes, to monitor HS2's ongoing performance.

Third-party agents acting for claimants

Whilst I have urged HS2 to improve the clarity of their communications with affected residents, I also recognise that people close to the line of route may have received communications from firms seeking to act on behalf of applicants or potential applicants. At recent Phase 2b events, I have been concerned to hear that in some of these communications, the 'facts' set out by these firms may differ materially from the reality of the property schemes.

I would be very pleased to receive any examples of these marketing materials produced by private firms seeking to act on behalf of applicants. I would like to establish whether these firms have misunderstood the intent of the property schemes operated by HS2 Ltd and, more importantly, whether they are pressurising affected residents into having an agent act on their behalf.

My contact details are at the end of this report.

Urban Compensation/Prolonged Disturbance 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, and I am disappointed at the length of time it is taking to get a clear policy agreed and launched.

My focus remains on ensuring that the final scheme is comprehensive, clear, available to all, and easy to both

understand and apply for, especially given the diversity of the affected communities. I have now seen the engagement strategy for this policy that has been signed off; however, I have yet to see an implementation plan, and I remain concerned that this area is still outstanding.

Recommendation

As part of the launch of this scheme, HS2 Ltd must set out a clear implementation plan appropriate to the communities for whom this scheme is designed.

Settlement deeds

In Information Paper E23, and the more user-friendly *High Speed Two (HS2) Guide to Settlement*, HS2 Ltd 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 which may occur, the mitigation measures it will take to minimise any impacts, and the legal deed which it is offering to homeowners.

Work is continuing to map out the process for homeowners to follow in due course, so that all those entitled to the scheme know about and can benefit from it.

There has been no further progress on this scheme and it remains outstanding.

Community Engagement Strategy

Progress against the 10 community commitments was published in the autumn of 2018 and the next 6-monthly update is imminent.

The first progress report did deliver in terms of measurable commitments and there were some good case studies to demonstrate progress. Some of these will be easier to show on Phase One than for other phases where Royal Assent has not yet been granted.

As it is a report on progress, the next report will also highlight key learning points on the commitments, where applicable, and the actions HS2 Ltd will be taking on these.

HS2 Helpdesk relocation

HS2 Ltd has recently relocated the Helpdesk to the same office as the HS2 Public Response Team. I welcome this move as the physical proximity of the two teams should mean that enquiries and complaints can be resolved more quickly, which in turn should deliver an improved service to the public.

Next steps

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

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