

# HS2

## Promoter's Introduction to Land Compensation HS2 Phase 2A

Colin Smith FRICS

1

**Land Acquisition Powers and Policy**

2

**Statutory Compensation – the Compensation Code**

3

**Generalised Blight – the HS2 non-statutory property package**

# Land acquisition Powers and Policy



# HS2 Phase 2A Bill

Seeks powers to acquire land and construct Phase 2A works.

Identifies land to be acquired within limits.

Incorporates existing law on compulsory purchase processes.

Incorporates existing law on assessment of land compensation.

# HS2 Land Acquisition Policy

## Information Paper C3: Land Acquisition Policy:

- “The Bill generally includes full land acquisition powers. However, in any individual case, the exercise of these powers will operate on the basis that the Secretary of State will acquire no greater amount of land than appears to him to be reasonably required following the detailed design of the Proposed Scheme.” Information Paper C3: para 3.3
- The Bill also confers power to possess and use temporarily all that land which the Secretary of State can acquire compulsorily (Schedule 15).
- The Secretary of State has stated that if the landowner wishes and it is economic for him to do so he will normally be willing to take land required for worksites temporarily. Information Paper C3: para 4.2

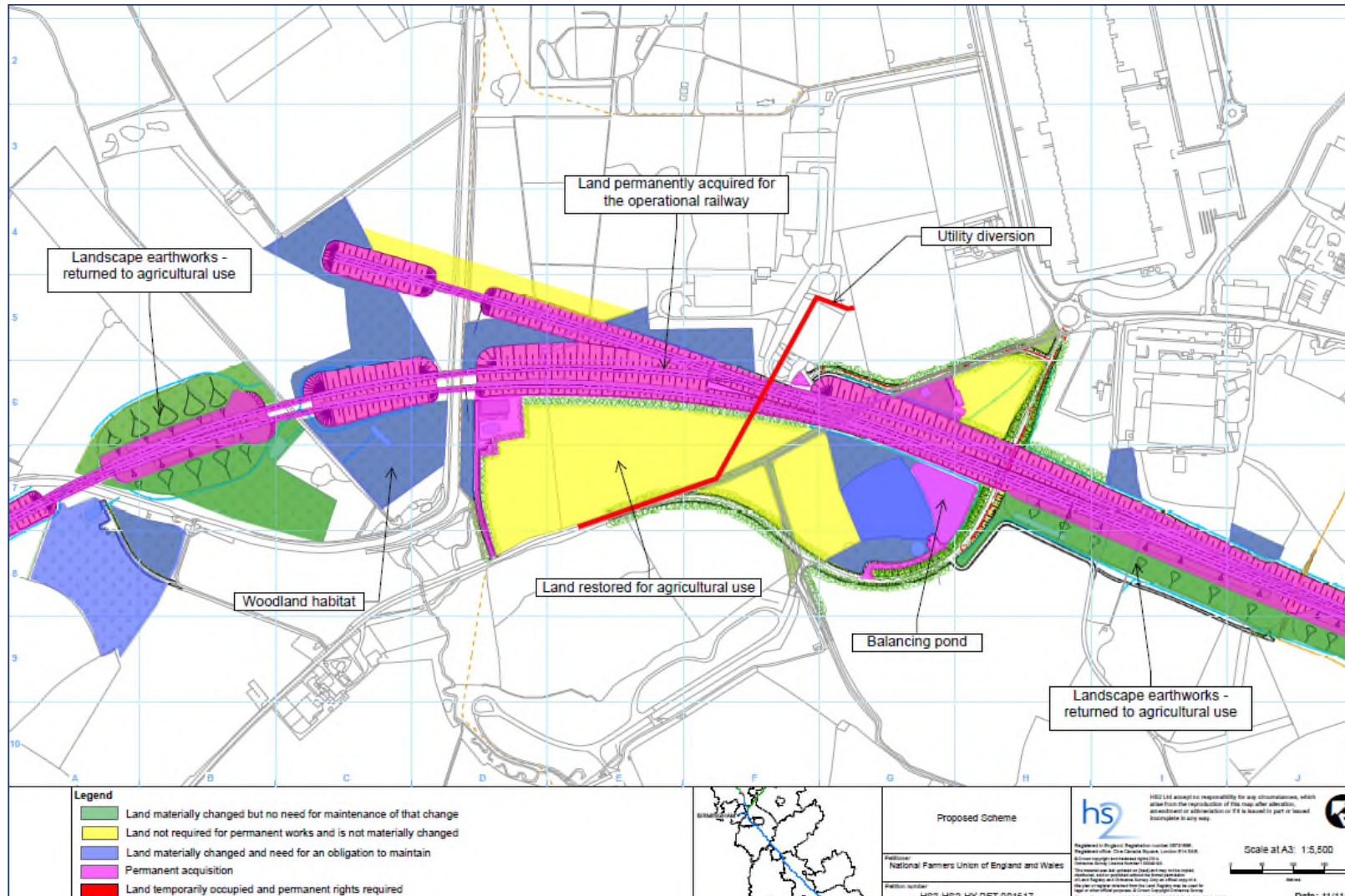


# Temporary Possession and Use

- A number of scenarios identified as to when the Secretary of State might exercise powers of temporary possession and use: see HS2 'Guide for Farmers and Growers' and Information Paper C2.
- Factors which the Secretary of State will consider include:
  - Length of time for which the land is required;
  - Comparative overall cost of temporary use v permanent acquisition;
  - Likely cost of restoration;
  - Safeguards required to secure maintenance of mitigation measures (eg earthworks, planting) and future access to railway infrastructure (eg balancing ponds).
- Compensation is payable for any loss that results from the exercise of those powers. (Schedule 15)

# HS2 land acquisition

An illustration



# HS2 Land Disposal Policy – information paper C6

- Land acquired under compulsory purchase that is surplus to the Proposed Scheme will be offered back to the former owner to purchase at its open market value
- Limited to surplus land whose character has not been materially changed by the Proposed Scheme
- The Policy includes a number of exceptions where the Secretary of State considers that the land should be retained in the public interest



# National Farmers Union – Assurances

- Cover a wide range of issues discussed with the NFU
- Changes made on Phase 2a will apply on
  - Land acquisition – early acquisition of the railway corridor
  - Notice of entry for temporary possessions extended
- Other issues covered include:
  - Application of land acquisition and temporary possession powers
  - Claims for compensation and prompt payment
  - Relocation of agricultural buildings
  - Water supply
  - Drainage
  - Borrow pits
  - Restoration of agricultural soils affected by works
- Updated Phase 2a Guide for Farmers and Growers issued July 2019

# Statutory Compensation: The Compensation Code



# Compensation under the Statutory Compensation Code

Compensation for  
land acquired

Disturbance  
compensation

Compensation  
where part of a  
property is acquired

Compensation  
where no land is  
acquired

# Valuation Rules and Assumptions

- **Rule 2** – Compensation is assessed by reference to the open market value of the land acquired on the assumption that the Proposed Scheme has been cancelled, ignoring any increase or decrease in value resulting from the Bill scheme.

Land is sold in a manner likely to obtain the highest price

Land can be developed for alternative uses if allocated on a development plan

Land can be developed in accordance with a certificate of appropriate alternative development issued by the Planning Authority

Hope value for future development

- **Rule 5** – The exception to the rule is where land is devoted to a purpose for which there is no general demand or market where compensation may be assessed on the basis of equivalent reinstatement.

# Land acquired in part – Severance and Injurious Affection

Value of part of land  
acquired – as outlined  
previously

Depreciation to  
retained land from  
severed connection or  
from the impact of HS2  
payable in addition

Works to accommodate  
existing activities on  
affected land:

- Provision of  
alternative access
- Provision of stock  
proof fencing, field  
drainage
- Mitigation works

Owner can compel the  
Promoter to acquire:

- Isolated land less  
than 0.5 acres
- Isolated land where  
cost of linkage  
exceeds land value
- Severed land  
economically  
unviable to farm

# Land acquired in part - Material Detriment

- If part only of a property cannot be acquired without
  - Material detriment to a house, building or factory
  - Seriously affecting the amenity of a park or garden
  - The land or building being less useful or valuable to a significant degree
- Then the Promoter can be required to purchase the whole property and pay statutory compensation
- Does not apply where subsoil only acquired

# Disturbance Compensation Principles

- Costs or losses arising to the occupier as a result of compulsory acquisition and dispossession not directly based on the value of land
- Direct and reasonable consequence arising from compulsory acquisition
- Cost of acquiring alternative premises normally not included – assume value for money
- Party dispossessed must act in a reasonable manner and mitigate losses

# Disturbance Compensation: Examples of Heads of Claim

Loss of crops  
on agricultural  
land

Cost of  
seeking  
suitable  
alternative  
premises

Costs of  
specially  
adapting  
alternative  
premises

Temporary  
and  
permanent  
loss of profits

Costs of  
providing new  
stationery

Close down of  
business if  
relocation not  
possible

Redundancy  
and other  
costs on close  
down

Stamp Duty  
on new  
premises

Legal and  
surveying fees



# Statutory Loss Payments

## Home Loss Payment

- 10% of market value, currently £64,000 maximum, £6,400 minimum
- Lawful residential occupier entitled to payment on displacement

## Basic Loss Payment

- 7.5% of market value, currently £75,000 maximum

## Occupier's Loss Payment

- 2.5% of market value, currently £25,000 maximum
- Occupier's Loss Payment – agricultural land and other buildings

# Land Compensation – assessment and payment

Date of valuation and the date claims arise – date of vesting or entry

Advanced Payments – 90% of agreed compensation (absent agreement) of the Promoter's estimate after Bill enacted within 2 months of receipt of a full claim

Statutory Interest – at the prescribed rate is payable on compensation from the date of entry by HS2

# Entitlement to Land Compensation

- Owners and occupiers of land interests including freeholders and leaseholders
- Information paper C15 explains the heads of compensation available to short term residential and agricultural tenants

# Compensation payable to Short Term Agricultural and Residential tenants

- Compensation for tenants displaced by compulsory acquisition includes:
  - The open market value of the tenancy agreement.
  - Disturbance costs – usually reasonable removal costs.
  - Home Loss payment - 10% of the open market value with a minimum of £6,400 provided the tenant has occupied the property under a legal agreement for 1 year prior to displacement.

# Statutory Land Compensation Disputes Process

- Independent determination by either:
  - Alternative disputes resolution agreed with landowner - IP C8 Compensation Code for Compulsory Purchase. This may include :-
    - Mediation
    - Early Neutral Evaluation
    - Expert Determination
  - Otherwise disputes resolved by the Upper Tribunal (Lands Chamber)

# Blight notices

- Applies in the corridor of land safeguarded for the Proposed Scheme
- Qualifying owners may serve a blight notice requiring the Secretary of State to purchase property in advance
- Qualifying owners -
  - Residential owner occupier with a freehold or with 3 years lease unexpired at valuation date
  - Business owner occupied with a freehold or 3 years lease unexpired at valuation date with rateable value less than £36,000
  - Owner occupier of an agricultural unit
- The Secretary of State may accept the blight notice or may serve a counter notice declining to purchase the land, on certain stated grounds
- The owner may object to the counter notice before the Upper Tribunal (Lands Chamber)
- If the notice is accepted or confirmed, land compensation is assessed in accordance with Compensation Code

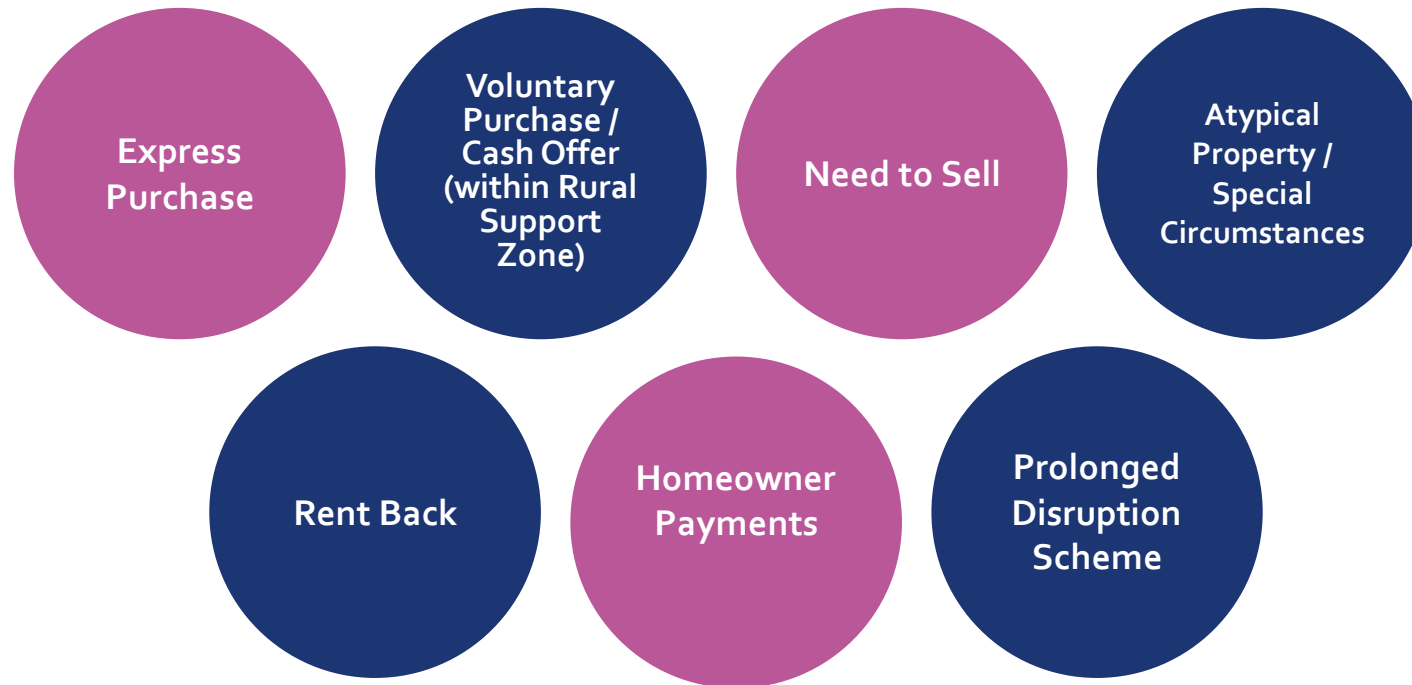
# Generalised Blight HS2 Non Statutory Property Schemes

*A link will be provided to the Committee by HS2 to property scheme details.*



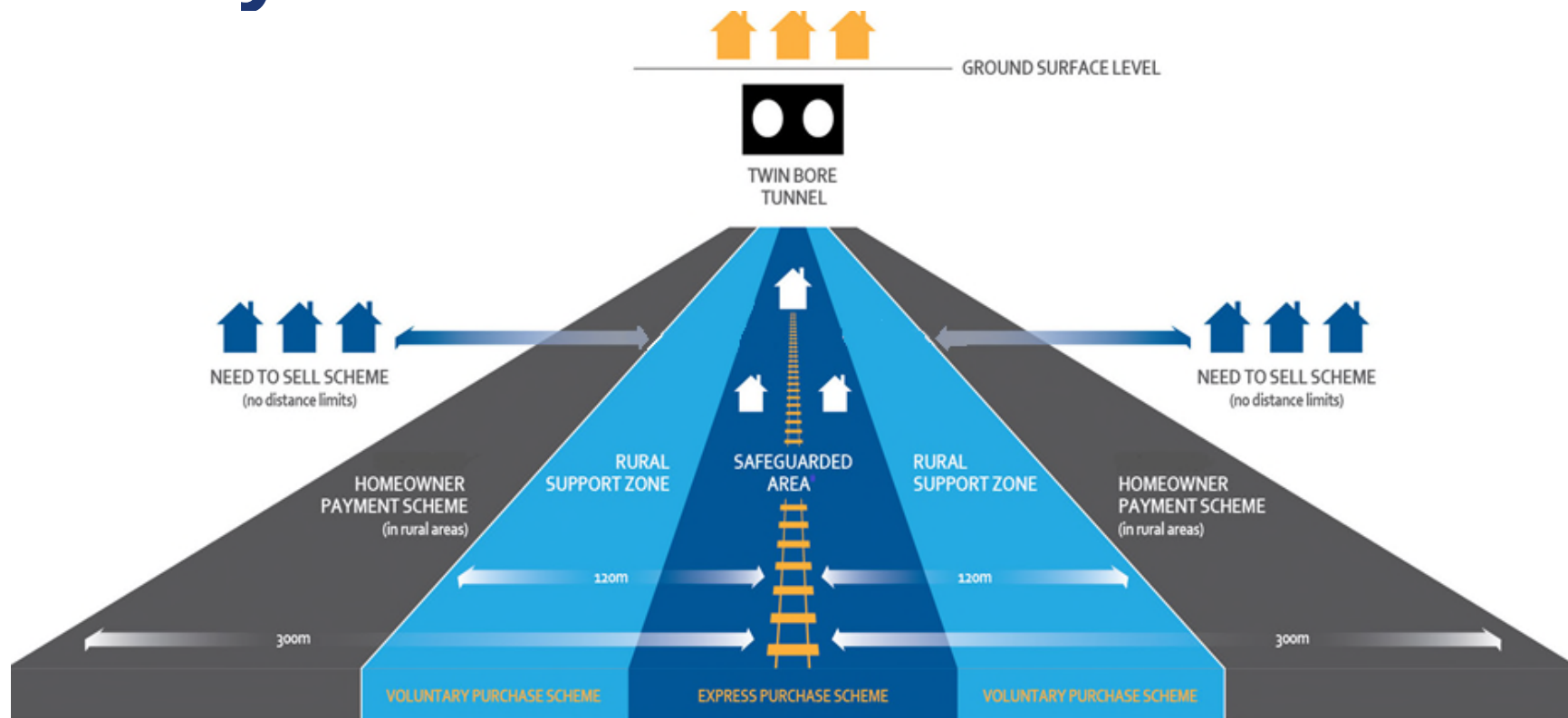
# Generalised Blight: Phase 2A

## HS2 Non Statutory Property Package





# HS2 Non Statutory Property Package: Summary



Please note: All distances are taken from the centre line of the railway.

# Need to Sell Scheme

- No geographical boundary outside of the Rural Support Zone
- Five 'criteria':
  - Property ownership - eligibility as for statutory blight
  - No fixed location of property but substantially affected by HS2
  - Efforts to sell made without success or at a price significantly lower than the unblighted property value
  - No prior knowledge of HS2 purchased prior to 28.01.2013
  - Compelling reason to sell
- Applications are assessed by independent panel (with recommendation to the Secretary of State);
- Where the application is accepted, the Promoter will purchase the property at the full unblighted value (no disturbance or home loss payment)

# Atypical Properties or Special Circumstances

Decided by the  
Secretary of State  
for Transport

On a case by case  
basis

May be  
appropriate to  
supplement non-  
statutory  
property  
schemes

# Rent Back

- All homes purchased by the Promoter can be considered for rent back to former owners provided:
  - The property complies with relevant standards for residential occupation
  - The costs in so doing would be at a reasonable level;
- Appropriate tenancies offered depending on circumstances

# HS2 Non Statutory Property Package

## Mechanism for assessment of unblighted value

Property owner and HS2 Ltd each choose a registered valuer

Two valuations carried out

If valuations within 10%, the average figure is taken

If valuations more than 10% apart the applicant may request a third valuation from a registered valuer

The figure is taken from the average of the two closest valuations

# Homeowner Payments

Intended to allow home owners in rural areas an early share in the benefits of the Scheme

Outside safeguarding and voluntary purchase zone up to 300 metres from the centre line of the railway (other than where line in bored tunnel)

120-180 metres - £22,500  
180-240 metres - £15,000  
240-300 metres - £7,500

Applies to eligible owners with no prior knowledge of the project

Will be implemented following Royal Assent to the Bill

# HS2

# The end

Any questions?