

## HIGH SPEED TWO PHASE 2a INFORMATION PAPER

### C13: SITE ACCESS FOR SURVEYS

This paper outlines arrangements for access to private land for the undertaking of ecological, engineering and other types of survey to inform the development of hybrid Bill(s) for HS2 and the design and construction of the Proposed Scheme.

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 High Speed Rail (West Midlands-Crewe) Bill which is now enacted. It was finalised at Royal Assent and no further changes will be made.

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.

**The Helpdesk can be contacted:**

**by email:** [HS2enquiries@hs2.org.uk](mailto:HS2enquiries@hs2.org.uk)

**by phone (24hrs):** 08081 434 434  
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**or by post:** High Speed Two (HS2) Limited  
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# C13: SITE ACCESS FOR SURVEYS

## 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 phases: Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route to Crewe. Phase 2b will extend the route to Manchester, Leeds and beyond. The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act 2017.
- 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 July 2017, the Government introduced a hybrid Bill<sup>1</sup> to Parliament to seek powers for the construction and operation of Phase 2a of HS2 (the Proposed Scheme). The Proposed Scheme is a railway starting at Fradley at its southern end. At the northern end it connects with the West Coast Main Line (WCML) south of Crewe to allow HS2 services to join the WCML and call at Crewe Station. North of this junction with the WCML, the Proposed Scheme continues to a tunnel portal south of Crewe.
- 1.4. The work to produce the Bill includes an Environmental Impact Assessment (EIA), the results of which are reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs)<sup>2</sup>, which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.5. The Secretary of State for Transport is the Promoter of the Bill through Parliament. The Promoter will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill. This body is known as the 'nominated undertaker'. The nominated undertaker will be bound by the obligations contained in the Bill and the policies established in the EMRs. There may be more than one nominated undertaker.
- 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 Proposed Scheme have been reached.

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<sup>1</sup> The High Speed Rail (West Midlands – Crewe) Bill, hereafter 'the Bill'.

<sup>2</sup> For more information on the EMRs, please see Information Paper E1: Control of Environmental Impacts.

## 2. Overview

- 2.1. This information paper outlines arrangements for access to private land for the undertaking of ecological, engineering and other types of survey to inform the design and construction of the Proposed Scheme. It explains the different approaches that will apply both before and after the date on which the Bill achieves Royal Assent, when certain legal powers will become available.

## 3. Background

- 3.1. At each stage of the planning, design and implementation of the Proposed Scheme, HS2 Ltd and its agents, contractors and representatives require access to private land to undertake surveys and investigations for a variety of purposes, including but not limited to:
  - environmental, wildlife and other surveys to support the preparation of Environmental Statements, to gather information to support the preparation of the Bill and to monitor the effectiveness of environmental mitigation works;
  - farm impact and business impact assessments for the Bill;
  - geological investigations and intrusive site investigations (involving boreholes and trial pits) to inform detailed design and engineering; and
  - archaeological and other site investigations.
- 3.2. In 2012, HS2 Ltd implemented an approach to site access for surveys in Phase One of HS2 that involved the offer of an early access agreement ('EAA') and payment of licence and survey fees, in line with standard terms reviewed by the Country Land and Business Association, the Central Association of Agricultural Valuers and the National Farmers Union. In 2015, the standard EAA terms were reviewed and updated and also extended to introduce new forms of ground investigation ('GI') access licence templates. This form of agreement has been widely accepted by many landowners, and since 2015 HS2 Ltd has used the updated Phase One EAA terms to agree site access for surveys for the Proposed Scheme.
- 3.3. Royal Assent to the Bill will provide the nominated undertaker with powers to enter land for surveys in connection with the Proposed Scheme, subject to conditions, under Schedule 2 to the Bill. This information paper sets out HS2 Ltd.'s approach to seeking access to private land both before and after the date on which the Bill achieves Royal Assent.

## 4. Access to and use of land before Royal Assent

- 4.1. Sections 54 and 55 of the Phase One Act give powers in connection with subsequent hybrid bills to authorise works for a "high speed railway line in Great Britain" to enter any land that is "within 500 metres of the proposed route of the line" to survey the land (including boreholes and taking samples) or to facilitate

compliance with EU environmental protection legislation. This, therefore, includes the route of the Proposed Scheme.

- 4.2. All reasonable attempts must be made to obtain consent to enter the land before the powers can be exercised. A warrant from a justice of the peace (in the case of residential land) or written authority from the Secretary of State (in the case of any other land) will be required. In exercising a warrant or authorisation under section 54 of the Phase One Act, at least 14 days' notice of intended entry will be given to the occupier.
- 4.3. If entry to land is taken using the powers in section 54, compensation is payable for damage to land or other property as a result of the exercise of rights of entry and any dispute as to the amount is to be settled in accordance with Part 1 of the Land Compensation Act 1961.
- 4.4. In addition, Part 7 of the House and Planning Act 2016 gives powers in connection with rights to enter and survey land. Section 172(1) provides that a person authorised in writing by an acquiring authority may enter and survey or value land in connection with a proposal to acquire an interest in or a right over land.

## **5. Access to and use of land after Royal Assent**

- 5.1. Royal Assent to the Bill will bring into law Schedule 2 which includes authority to survey and investigate land. The nominated undertaker will be able to rely upon these powers and will no longer rely on section 54 and 55 of the Phase One Act to obtain access to land for surveys.

### *Access to land for surveys and investigations pursuant to Schedule 2*

- 5.2. Schedule 2 paragraph 1 of the Bill gives a nominated undertaker powers for survey or investigation of land "within Act limits or which may be affected by the works authorised by [the] Act", including searching, boring and excavating; placing/ leaving and removal of apparatus; and taking samples/monitoring; subject to at least 14 days' notice. There is no requirement for advanced negotiations or any form of site access licence.
- 5.3. Schedule 2 paragraph 1 applies section 176 of the Housing and Planning Act 2016 which provides for a right to compensation. Accordingly a person interested in land is entitled to compensation from the nominated undertaker for damage as a result of the exercise of Schedule 2 powers. Any dispute relating to compensation shall be determined by the Upper Tribunal and the provisions of section 4 set out in Part 1 of the Land Compensation Act 1961.

### *Approach following Royal Assent*

- 5.4. The nominated undertaker will in all cases aim for early communication with land owners where Schedule 2 access for surveys will be required. The nominated undertaker will rely on Schedule 2 but will endeavour wherever reasonably practicable to give a landowner or its appointed agent (and all occupiers) more than the minimum 14 days' written notice of its intention to

take access to land for the purpose of survey required in the Bill, and will make the landowner/agent/occupier aware of its rights to claim for damage under Schedule 2.

- 5.5. Where a site access licence has been entered into before Royal Assent, the terms of the licence (including any entitlement to financial payments) will continue until its expiry/extension or termination. If access is required after this time notice under Schedule 2 above will be given.

## 6. More information

- 6.1. More detail on the Bill and related documents and template EAA and GI licences can be found at [www.gov.uk/HS2](http://www.gov.uk/HS2)
- 6.2. Any enquiries about the terms and conditions of the standard access licences offered by HS2 Ltd should be sent:

by email to: [HS2enquiries@hs2.org.uk](mailto:HS2enquiries@hs2.org.uk)

or by post to:

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