

# HS2

## **High Speed Rail West Midlands to Crewe**

**Environmental Minimum Requirements**

General Principles

February 2021

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## Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

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# 1 Introduction

- 1.1.1 The High Speed Two (HS2) Phase 2a Environmental Statement (ES) was published in July 2017. It has been supplemented by a number of additional volumes as further information has become available, and in light of proposed changes to the project<sup>1</sup>. It is the intention of the Secretary of State to carry out the project so that its impact is as assessed in the ES. The Secretary of State will require the nominated undertaker to adhere to the arrangements provided for in the Environmental Minimum Requirements (EMRs) in designing and constructing Phase 2a of High Speed Two Works.
- 1.1.2 This document defines and explains the relevant minimum requirements, which are referred to as the 'Environmental Minimum Requirements'. It also contains as annexes a series of papers which support the EMRs, including the Code of Construction Practice (CoCP), the Planning Memorandum, the Heritage Memorandum and the Environmental Memorandum.
- 1.1.3 The controls contained in the EMRs, along with powers contained in the High Speed Rail (West Midlands – Crewe) Act (the Act) and the Undertakings given by the Secretary of State, will ensure that impacts which have been assessed in the ES will not be exceeded, unless any new impact or impacts in excess of those assessed in the ES:
- results from a change in circumstances which was not likely at the time of the ES<sup>2</sup>; or
  - would not be likely to be environmentally significant<sup>3</sup>; or
  - results from a change or extension to the project, where that change or extension does not itself require environmental impact assessment (EIA) under either (i) article 4(1) of and paragraph 24 of Annex 1 to the EIA Directive<sup>4</sup>; or (ii) article 4(2) of and paragraph 13 of Annex 2 to the EIA Directive<sup>5</sup>; or
  - would be considered as part of a separate consent process (and therefore further EIA if required).
- 1.1.4 Any nominated undertaker will be contractually bound to comply with the controls set out in the EMRs and as may be developed during the passage of the Bill through Parliament.
- 1.1.5 The nominated undertaker will in any event, and apart from the controls and obligations referred to in paragraph 1.1.3, use reasonable endeavours to adopt mitigation measures that will further reduce any adverse environmental impacts caused by Phase 2a of HS2, insofar as these mitigation measures do not add

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<sup>1</sup> Supplementary Environmental Statements and Additional Provision Environmental Statements were published in March 2018 and February 2019.

<sup>2</sup> i.e. a situation that could not reasonably have been anticipated at the time of the Environmental Statement.

<sup>3</sup> This covers all effects (both positive and adverse) where those effects are simply of no environmental significance.

<sup>4</sup> EIA Directive 2011 (2011/92/EU) as amended by Directive 2014/52/EU.

<sup>5</sup> Broadly, this would not allow those changes or extensions to the project (once it has received Royal Assent) which would give rise to adverse environmental effects within the EIA.

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unreasonable costs to the project or unreasonable delays to the construction programme.

- 1.1.6 In addition, where a statutory undertaker is carrying out development in connection with Phase 2a of HS2 for which it has planning permission because that development has been assessed in the ES, it will be required to comply with the controls set out in the undertakings and assurances referred to in paragraph 3.4 and documents contained in the Annexes, insofar as they are relevant and properly applicable to the undertaker. References to the nominated undertaker in those documents should be interpreted as references to the relevant statutory undertaker in such cases.

## 2 Definitions

- 2.1.1 It should be noted that the term 'impact' is used in the title of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to describe the environmental outcome arising from a project, while the main body of the text of the Regulations refers to the term 'effect'. The EMRs take these two terms to have the same meaning.
- 2.1.2 In this document the following terms shall have the meanings ascribed to them for the purpose of understanding the Environmental Minimum Requirements:
- 'Code of Construction Practice' (CoCP) means the series of objectives and measures to be applied generally throughout the construction period to maintain satisfactory levels of environmental protection and limit disturbance from construction activities, which is set out in Annex 1.
  - 'Phase 2a of HS2' means the section of the proposed railway that runs between the West Midlands and Crewe.
  - 'Phase 2a Works' means works in relation to the design, construction, commissioning and completion of works authorised by the Act.
  - 'Environmental Management System' means the management system to be developed by the nominated undertaker pursuant to Annex 4.
  - 'Environmental Memorandum' means the memorandum relating to the environmental aspects of the design and construction of the Phase 2a HS2 Works, which is set out in Annex 4.
  - 'Environmental Statement' (ES) means the Phase 2a HS2 Environmental Statement submitted in July 2017, as amended by the Supplementary Environmental Statements and Additional Provision Environmental Statements submitted in March 2018 and February 2019.
  - 'High Speed Rail (West Midlands – Crewe) Act' means the Parliamentary Act in respect of the HS2 scheme given Royal Assent on 11 February 2021.
  - 'Nominated undertaker' means the organisation or organisations which will be appointed by the Secretary of State to design, construct, operate and maintain High Speed Rail (West Midlands – Crewe).
  - 'Planning Memorandum' means the memorandum setting out undertakings given by local authorities with respect to the handling of planning matters for the Phase 2a HS2 Works arising under the Planning Conditions Schedule to the High Speed Rail (West Midlands – Crewe) which is set out in Annex 2.
  - 'Heritage Memorandum' means the memorandum setting out undertakings given by the nominated undertaker with respect to the handling of heritage matters for the HS2 Works which are set out in Annex 3.
  - 'Secretary of State' means the Secretary of State for Transport.



## 3 Environmental Minimum Requirements

- 3.1.1 'Environmental Minimum Requirements' (EMRs) means the requirements:
- of the memoranda and agreements referred to in paragraph 3.1.2;
  - of the undertakings and assurances referred to in paragraph 3.1.4; and
  - set out in paragraphs 1.1.5 and 3.1.6 to 3.1.10.
- 3.1.2 The nominated undertaker shall comply with and, where required to do so by the Secretary of State, shall at such time and within such period as may be reasonably required by the Secretary of State execute and deliver memoranda and agreements on planning, heritage and related matters, in the form reasonably required by the Secretary of State, including but not limited to the Planning and Heritage Memoranda, listed building agreements and overarching archaeological written scheme of investigation.
- 3.1.3 The nominated undertaker shall comply with all undertakings and assurances as specified by paragraph 3.1.4 and those undertakings or assurances shall take priority over the remainder of the EMRs to the extent of any inconsistency.
- 3.1.4 The nominated undertaker shall comply with all undertakings and assurances concerning the project specified in the "HS2 Register of Undertakings and Assurances" published by the Department for Transport or as otherwise notified to the nominated undertaker.
- 3.1.5 The nominated undertaker shall also execute and deliver to the relevant party the deeds or agreements required by those undertakings or assurances. Those deeds and agreements must be delivered and executed in the form and at the time specified in the relevant assurance or undertaking or, if no form or time is specified, as reasonably required by the Secretary of State.
- 3.1.6 Where the nominated undertaker has agreed with the beneficial recipient of an undertaking or assurance referred to in paragraph 3.1.4 to amend, change, waive or in any way alter the terms of that undertaking or assurance, the nominated undertaker shall notify, if relevant, the local authority of the geographical area to which the undertaking or assurance relates of the new agreed terms of that undertaking or assurance, and shall comply with the new agreed terms of that undertaking or assurance. However, the nominated undertaker is not to amend, change, waive or in any way alter the terms of a specific undertaking given by the Secretary of State to Parliament.
- 3.1.7 The nominated undertaker shall build Phase 2a of HS2 on the lands defined in the HS2 Act. This does not preclude the nominated undertaker from building peripheral facilities on other land provided that the necessary approvals are obtained using the normal procedures.
- 3.1.8 In the circumstances described in the first bullet point of paragraph 1.1.3, if the significant adverse impacts identified in the ES are likely to be exceeded, the nominated undertaker will take all reasonable steps to minimise or eliminate those additional impacts. If despite these reasonable steps, significant adverse impacts remain the nominated undertaker will report them.

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- 3.1.9 The nominated undertaker shall adopt and implement the CoCP, which is set out in Annex 1 and shall develop and implement the Local Environmental Management Plans.
- 3.1.10 The nominated undertaker shall adopt and implement the Environmental Memorandum which is set out in Annex 4. The nominated undertaker shall develop and implement an Environmental Management System, in accordance with the requirements of the Environmental Memorandum (section 3.5 Environmental management system – overview, Environmental Memorandum), for ensuring compliance with the nominated undertaker’s environmental policy, with relevant environmental legislation, and with all the Environmental Minimum Requirements other than non-environmental aspects of undertakings and assurances. The Environmental Management System covering construction is to be developed and implemented before construction begins (section 3.4 Environmental management system, CoCP).
- 3.1.11 Where there are references to issues being agreed in the CoCP, Planning Memorandum, Heritage Memorandum and Environmental Memorandum, that agreement shall not be unreasonably withheld and any dispute or difference arising between the parties shall be referred to and determined by the Secretary of State.
- 3.1.12 References in any of the documents in the Annexes to specific standards or guidance represents a minimum requirement for the project. This does not preclude consideration of alternative approaches where the standards or guidance become obsolete or are superseded by new standards or guidance. Where the nominated undertaker proposes to update any part of these documents in response to new guidance or standards, it will consult the Planning Forum, the National Environmental Forum or a relevant subgroup of these bodies as appropriate on the wording of such a change.

## 4 Annexes

4.1.1 The following documents, which are referred to in the Environmental Minimum Requirements, are attached as Annexes:

- Annex 1: Code of Construction Practice
- Annex 2: Planning Memorandum
- Annex 3: Heritage Memorandum
- Annex 4: Environmental Memorandum

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