



Phase 2b Western Leg Information Paper

C7: Business relocation

This paper sets out HS2 Ltd's approach to helping businesses and other organisations that will have land taken for the construction or operation 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 (Crewe - Manchester) Bill. Content will be maintained and updated as considered appropriate during the passage of the Bill.

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.

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Version 2

Last updated: 6 July 2022

1 Introduction

- 1.1 High Speed Two (HS2) is the Government's scheme for a new, high speed north-south railway, which is being taken forward in a number of phases. Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route from the West Midlands to Crewe. The Phase 2b Western Leg will connect Crewe to Manchester. As set out in the Integrated Rail Plan, published in November 2021, HS2 East is proposed to deliver a new high speed line from the West Midlands to East Midlands Parkway.
- 1.2 HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works under the terms of a Development Agreement entered into with the Secretary of State for Transport.
- 1.3 The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act 2017 and Phase 2a by the High Speed Rail (West Midlands – Crewe) Act 2021.
- 1.4 In January 2022, the Government introduced a hybrid Bill to Parliament (hereafter referred to as 'the Bill'), to seek powers for the construction and operation of the Phase 2b Western Leg (the Proposed Scheme), which is called the High Speed Rail (Crewe – Manchester) Bill. The Proposed Scheme comprises the Phase 2b Western Leg from Crewe to Manchester and several off-route works. It also facilitates the delivery of Northern Powerhouse Rail by providing the Crewe Northern Connection and junctions and other infrastructure to be used in future schemes.
- 1.5 The work to produce the Bill includes an Equalities Impact Assessment and 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), which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed

Scheme. For more information on the EMRs please see Information Paper E1: Control of environmental impacts.

1.6 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'. There may be more than one nominated undertaker. However, any and all nominated undertakers will be bound by the obligations contained in the Bill, the policies established in the EMRs and any commitments provided in the information papers.

1.7 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.

2 Overview

2.1 This information paper sets out HS2 Ltd's approach to supporting businesses and other organisations that will have land taken for the construction or operation of the Proposed Scheme.

2.2 In this paper "businesses" refers to commercial undertakings, including urban and rural businesses, charities, community facilities and sports and leisure clubs.

3 Compensation

3.1 Businesses displaced by the Proposed Scheme will be compensated under the Compensation Code.

3.2 Where businesses are displaced from their existing premises by compulsory purchase of those premises for public works, the Compensation Code recognises the importance to those businesses of being able to relocate to another site. In addition to payment of the open

market value of the interest in the land acquired compulsorily, the Compensation Code normally provides for the reasonable cost of such relocation to be taken into account under the heading of disturbance compensation.

- 3.3 Information Paper C8: Compensation code for compulsory purchase introduces the Compensation Code. In addition, there is a series of five booklets published by the Department for Levelling Up, Housing and Communities covering the subject. Booklet 2 (Compensation to Business Owners and Occupiers) and Booklet 3 (Compensation to Agricultural Owners and Occupiers) specifically deal with businesses. A link to these booklets can be found in the references section at the end of this paper.

4 Practical assistance with relocation

- 4.1 Experience suggests that in the majority of cases businesses will be able to use their compensation payments and the open property market to relocate their operations. To assist in this process the Secretary of State or the nominated undertaker will establish where applicable and at its own cost, an agency service to assist those businesses on an individual basis that will have land taken for the construction and operation of the Proposed Scheme where there is sufficient demand for such a service. In the alternative and where appropriate, the Secretary of State or the nominated undertaker, will pay those businesses the reasonable costs of appointing their own agent to find suitable premises as part of the compensation.
- 4.2 The agency service will support firms to ascertain their property requirements and provide information on appropriate alternatives available to meet their reasonable accommodation needs.
- 4.3 Where appropriate, the agency service will work with property agents, landowners, and developers as well as the Department for Business, Energy and Industrial Strategy, Local Enterprise Partnerships, local authorities and other relevant organisations identified to ensure reliable and effective information is provided.

- 4.4 The agency will not act as adviser or negotiator to displaced businesses in formulating their claims for compensation. Claimants may be able to recover reasonable professional costs of appointing their own agents for such purposes. For further information please refer to Information Paper C9: Recovery of costs by property owners.

5 Additional time to relocate

- 5.1 It is important that affected businesses are able to plan their relocations with as much advance notice as possible in order to ensure the smooth transition of operations from one location to another.
- 5.2 In relation to Land and Property acquisitions, the Bill requires that at least three months' notice of entry prior to entering and taking possession of a property is provided. However, the Secretary of State or the nominated undertaker will endeavour to provide affected businesses with a longer period of notice of entry, where this is reasonably practicable. In such cases the Secretary of State's overall aim will be to provide as long a period as is reasonably practicable commensurate with the coordinated progress of the construction of the Proposed Scheme.

6 Financial assistance with relocation

- 6.1 As a discretionary measure, not required by the Compensation Code, financial support may be offered in advance of taking possession to enable a business' relocation by:
- payment of up to 90% of the nominated undertaker's estimate of the compensation, to support cash flow and/or
 - payment of reasonable interim professional fees, to support cash flow; and/or
 - early acquisition and leaseback of a business' existing site to allow a new property to be acquired and developed while the business continues to operate at its current premises; and/or

- advanced funding for more complex business relocations with longer programmes for implementation.

6.2 This will be dependent on the circumstances of the individual cases and subject to the negotiation of suitable terms, and to obtaining all necessary budgetary and other approvals.

7 Bill powers to acquire land for relocation

7.1 The measures set out above are designed to ensure that the majority of businesses and other organisations affected by the Proposed Scheme will be able to find and relocate to suitable alternative premises in a timely manner.

7.2 However, for some more specialised businesses with specific site or location requirements there may be a very limited supply of alternative premises and it may take some time to find, acquire, prepare and develop such sites.

7.3 Where the claimant establishes that their business cannot reasonably be relocated from its current premises, the claimant is entitled to be compensated for the total extinguishment of the business under the Compensation Code. The amount payable in this case would be the value of their business as a going concern.

7.4 While the Secretary of State considers this is a fair basis for compensation, they recognise the potential impact that extinguishments could have on the wider communities affected. The Secretary of State expects the nominated undertaker will take all reasonable steps to avoid or to limit the total number of extinguishments.

Compulsory purchase powers to acquire land for the relocation of businesses

7.5 In exceptional cases, clause 46 of the Bill provides a power to promote an order to purchase compulsorily an alternative site in order to reduce the risk of total extinguishment of a business displaced by the Proposed

Scheme occurring, by securing the planned and timely relocation of that business.

7.6 The Secretary of State expects to exercise that CPO power only in cases where all of the following criteria are met:

- as a result of the exercise of any power under the Bill, the site on which the whole or any part of the business has previously been carried on is no longer reasonably capable of being used for the purposes of the business;
- there is a significant risk that the business will face total extinguishment as all other options for relocation, within the timescales of the Proposed Scheme on reasonable market terms, have been exhausted; and
- the Secretary of State considers that it is in the public interest that the business is relocated because the relocation will secure the retention of a significant number of jobs, or the relocation will secure the retention of key community assets or facilities, or the business is otherwise of strategic local or regional importance.

7.7 If the Secretary of State is satisfied that all the above stated criteria have been met in any particular case, he will then decide whether he should exercise the power under clause 46 of the Bill.

7.8 All cases will be considered on their merits and will be subject to the submission by the claimant of an appropriate business-case demonstrating that the above criteria have been met and giving supporting evidence. It will also be subject to the agreement of suitable terms for the acquisition of the current site in accordance with the Compensation Code and the relocation to the new site.

7.9 The proposal to use the power and the supporting business case will be considered by an independent expert commissioned by the nominated undertaker who will report to the Secretary of State making a recommendation.

- 7.10 The Secretary of State will take the report into account in deciding whether, subject to the procedures mentioned below, the power should be exercised.
- 7.11 The power to make a Compulsory Purchase Order (CPO) under clause 46 is subject to the same procedures and safeguards as apply to the making of other CPOs. A CPO may be made only if there is a compelling case in the public interest to justify its use. Landowners and other interested persons affected by a proposed CPO have the right to object to its confirmation. If such objections are raised, the case for and against the proposed CPO must be examined by an independent planning inspector at a Public Inquiry or public hearing. As part of their examination the inspector must consider the proportionality of making the proposed CPO, in the light of its impact on affected landowners and other interested persons.
- 7.12 It will also be necessary to show there is no planning impediment to the land being used for the relocation of the business; for example, that it is not necessary to obtain planning permission, or if planning permission is required, that there is no obvious reason why it would be withheld. There are no powers under clause 46 to provide planning permission for any replacement development.
- 7.13 It should be noted that the use of the clause 46 power will not in any way imply or warrant that the property to be acquired under the CPO is suitable for the relocation of the business, legally or physically. It will be the claimant's responsibility to obtain all such assurances and evidence, including site investigations, title investigations and planning permissions, or other consents as may be required and to demonstrate such to the nominated undertaker's satisfaction.

Powers to reinstate businesses within the Bill limits

- 7.14 Under clause 47 of the Bill, the nominated undertaker has power to reinstate (either on its existing site or on different land within the Bill limits) the whole or part of an undertaking where the Secretary of State judges the public interest demands such reinstatement. For these

purposes an undertaking includes a business or facility. The power to carry out reinstatement works would usually be delegated to the owner of the land on which the reinstatement works are proposed to take place.

7.15 In some cases the works required for reinstating a business or facility on land within the Bill limits will have the benefit of deemed planning permission but, depending on the nature of the works, it may be necessary to apply for planning permission under the Town and Country Planning Act 1990.

7.16 The Secretary of State will need to be satisfied that the following circumstances exist before the nominated undertaker can either exercise the clause 47 power itself or delegate the power to the landowner concerned:

- as a result of the exercise of any power under the Bill, the site on which the whole or any part of the business has previously been carried on is no longer reasonably capable of being used for the purposes of the business or its use will be significantly impaired;
- there is likely to be difficulty in obtaining planning permission for the reinstatement of the business or part of it on other land;
- that suitable land is available within the Bill limits that is no longer required for the construction and operation of the Proposed Scheme; and
- that there is a clear and compelling case in the public interest for the reinstatement to prevent the extinguishment or impairment of use of the business or part of it.

7.17 Examples of undertakings whose facilities may meet these criteria include:

- businesses that are of significant importance to the local, regional or national economy and whose discontinuance would lead to a significant number of job losses, have implications for the retention of

key specialist skills of local or national importance and have profound consequences for the communities and regions affected; and

- community facilities that provide vital services for the area whose loss could have profound social implications such as affecting the cohesion of the community or the effective functioning of the local area.

7.18 In addition, recognising the public interest in mitigating the impacts of the Proposed Scheme on agricultural businesses along the route, the Secretary of State accepts that the criteria may be satisfied in relation to the replacement of facilities which are critical to the operation of an agricultural business, whether or not the business has a wider importance in relation to the local, regional or national economy. All cases will be considered on their merits in accordance with the Compensation Code and will be subject to the submission by the claimant of an appropriate business-case.

8 More information

8.1 More detail on the Bill and related documents can be found at www.gov.uk/hs2-phase2b-crewe-manchester.

References

Compulsory purchase system guidance:

<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>