

December 2022



# HS2 Residents' Commissioner

Report 17 – December 2022

# Summary

I am pleased to present the 17th report of the Residents' Commissioner and the inaugural report on my work since taking up the role in April 2022.

Thanks must go to my predecessor Deborah Fazan for her hard work and diligence as Residents' Commissioner since 2015 and to the Rt Hon Andrew Stephenson MP for his commitment and enthusiasm as HS2 minister between 2020 and 2022.

The Residents' Commissioner, although ably supported by the team at the Department for Transport (DfT) and by HS2 Ltd, is a fully independent role dedicated to overseeing and monitoring the commitments made by HM Government and the company, and to measuring and evaluating emerging trends as the project evolves.

The focus of this report will be on both the discretionary and statutory property schemes, and how HS2 Ltd communicates and engages with stakeholders, especially households and communities, and farmers, growers and landowners. The company's commitment in terms of respecting people and places will be reviewed.

I believe that, as the Residents' Commissioner, direct engagement along the line of route is imperative in order to gain a proper real-time perspective and to adequately represent residents' interests, in line with the Residents' Charter of 2015 ([www.hs2.org.uk/about-us/our-documents/hs2-residents-charter/](http://www.hs2.org.uk/about-us/our-documents/hs2-residents-charter/)).

# Progress since April 2022

**The 2021 Community Engagement Strategy centred on respecting people, respecting places and ministerial statements, in as empathetic and respectful a way as possible.**

**To this end, I have visited a number of sites since April 2022 as part of the community and stakeholder engagement events, including the Chipping Warden compound in Phase One, the South Portal and Colne Valley viaduct, and the new super-hub works at Old Oak Common; I also toured the Phase 2a line of route. I hope shortly to visit the Mandeville Road site in Northolt and tour the Phase 2b line of route in early 2023.**

## Meetings and construction activities

I have also attended meetings with local people directly affected by the project and value their direct input, observations, criticisms and suggestions, most notably from landowners and farmers in Warwickshire and local elected representatives in both north Buckinghamshire and the Chilterns. I thank Greg Smith MP, Cllr Gareth Williams (Bucks CC) and Mr Barry Noble respectively for facilitating this dialogue.

Due to changes in government since April, I have had limited opportunities to meet ministers but have maintained a good dialogue with DfT officials and, in particular, the Land and Property and Community Engagement and Stakeholder teams at HS2 Ltd, as well as the CEO of HS2 Ltd, Mark Thurston, and other senior managers. I look forward to regular meetings with the new rail minister, Huw Merriman MP, appointed by the Prime Minister in late October.

This report broadly coincides with the fifth update to Parliament on the progress of HS2, published on 27 October 2022 as a written ministerial statement by the new secretary of state, the Rt Hon Mark Harper MP. I welcome this continued transparency and accountability, especially the ability of elected representatives to hold ministers (and through them, HS2 Ltd) directly to account on behalf of their constituents.

The HS2 project has advanced significantly since Covid restrictions were lifted last year, with the build-out of major infrastructure on

Phase One across 350 sites; this has involved a number of new tunnel boring machines (TBMs) coming into service, early works on Phase 2a from Lichfield to Crewe, and the awarding of the rolling stock contract for the first two phases. There have also been large-scale land acquisitions across the line of route, particularly in Old Oak Common and Birmingham, and the unveiling of designs for the new Euston station, a 10-platform, single-stage build.

Construction has started on the UK's longest railway bridge at Colne Valley, and work is progressing on the Phase 2a design and delivery partner contract; this includes the concept design for HS2 trains and an invitation to tender for the Phase 2a main works, with the building of Curzon Street station in Birmingham commencing in February 2023.

## Phases 2a and 2b

The High Speed Rail (West Midlands–Crewe) Act (Phase 2a) obtained Royal Assent in February 2021.

The Phase 2b (Crewe–Manchester) (Western Leg) Hybrid Bill (<https://bills.parliament.uk/bills/3094>), received its second reading in the House of Commons in June 2022. This phase should be seen within the context of the government's Integrated Rail Plan published in November 2021 and the plans for a high-speed railway between Crewe and Manchester, with new stations at Manchester Airport and Manchester Piccadilly. The Bill includes powers to compulsorily acquire interests and take temporary possession of required land, and triggered a petitioning period for the Bill which ran from 21 June to 4 August 2022.

On 6 July 2022, the government deposited an Additional Provision (AP1) relating to the removal of the Golborne Link and a Supplementary Environmental Statement to the Bill in Parliament.

In total, 134 petitions were received against the Bill itself and 21 against the AP1 – substantially lower than the number of petitions lodged against Phases One and 2a. This may reflect the decision made earlier this year to remove the Golborne Link from the Bill and the preparatory outreach and engagement work HS2 Ltd has undertaken (and continues to undertake) with those stakeholders and communities most impacted by the proposals. In 2021, HS2 Ltd held a Design Refinement Consultation on Phase 2b, and also used virtual tools such as phone calls and letters to engage with communities and relevant stakeholders over a nine-week period. That said, the Select Committee has yet to be appointed

and a timetable for considering evidence from petitioners has not been published (as of November 2022).

Petitions arising from the Phase 2b Hybrid Bill are largely from well-resourced professional bodies such as the National Farmers Union, and organisations and ad hoc groups representing local communities. General themes are around further land acquisitions, compensation and relocations. Other specific geographical land and property issues include the operational-ground-borne noise at Crewe, the ventilation shafts at Manchester, the fragmentation of the Tatton Estate, and alternative proposals for Manchester Piccadilly Station.

As Residents' Commissioner, I will keep a watching brief on the petitions process and the legislative journey of the latest Hybrid Bill and any future legislation.

Since the announcements made in November 2021, uncertainty over what the government's future plans are has caused anxiety for thousands of people. Ministers need to ameliorate these concerns as soon as practicable with a degree of clarity and certainty and, at the very least, engage in regular dialogue and information-sharing to address these concerns.



# Land and property

**Naturally, I have taken a keen interest in this important aspect of my portfolio (with the caveat that the Residents' Commissioner does not intercede in individual property disputes) and that has included my role as the independent member of the Property Approvals Group (PAG), a DfT committee with expertise to decide on atypical and special circumstances cases. PAG provides a strong independent voice and challenge on behalf of stakeholders, and works well in recognising the unique circumstances of each applicant. In my experience thus far, PAG has operated with flexibility, empathy and pragmatism, albeit within the confines of ministerial and Parliamentary restrictions and legislation.**

## Ministerial review

Much of the work of my predecessor was scrutinising and overseeing progress on the implementation of the ministerial review published in November 2020 by the then HS2 minister Andrew Stephenson MP, and this included membership of a specially established oversight group. The review contained 36 recommendations on a wide range of aspects of the HS2 land and property regime, and focused on changes to be made by HS2 Ltd, as well as policy changes by DfT and the then Ministry of Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities). Although not a public consultation, the review team did seek the advice of key practitioners who had professional experience of servicing clients directly affected by HS2.

The review was prompted by a perception that, since the inception of the project ten years ago, the acquisition and compensation for property were too narrowly focused upon the administrative convenience of the acquiring authority, and too little consideration was given to the needs and wishes of property owners. It was felt that a proper and thorough review with reforms was timely and imperative. The review was grouped across four work areas: courteous, respectful and clear communications; more flexible compensation policies; a people-centred land and property strategy; and interactive and efficient application processing.



Much has been achieved since the review was published, from the investment in resources to deliver better systems for use by HS2 Ltd and the property owners with whom the company interfaces, through reforms to some of the non-statutory schemes, to providing more options when property owners disagree with the conclusions of HS2 Ltd.

These improvements have helped to reassure many of those most affected by HS2, but there is more to be done. That said, the “Track my Property” online portal, one of the review’s key recommendations, has been live on the HS2 website for over a year.

As DfT has made clear, developing and reforming the approach taken to acquire property and pay compensation is an iterative process and HS2 Ltd continues to learn lessons as the project progresses. The 2020 Land and Property Review can therefore be seen as a “snapshot” of the problems that were identified during the review process.

One advantage of the phased development of HS2 is that it allows the lessons of the preceding phases to be applied to subsequent phases, something currently being evidenced already on Phase 2a.

A number of underlying issues have yet to be resolved, and DfT remains committed to the objectives of the 2020 review, in particular to having a people-centred approach (as I learned during my training):

*“As the pace of delivery of the HS2 programme continues to accelerate we also need to focus on engaging with people living along the HS2 route who are affected by construction activity.”*

The Land and Property team at HS2 Ltd will increasingly focus on projects that contribute to its three key transformation portfolio objectives. These objectives are:

- **Make things better for our people** Improve how the Land and Property team operate on a day-to-day basis, developing a more integrated environment with efficient ways of working. Clear accountabilities will help to empower people across the organisation.
- **Improve the claimant experience** Let a positive claimant journey be the purpose of the Land and Property team. Improve the way data is managed and utilised to provide consistent responses to claimants and other external customers.



- **Value for money** Improve efficiencies across the processes and systems of the Land and Property team to promote more effective decision-making and drive value for the taxpayer.

In order to meet these objectives, the Land and Property team at HS2 Ltd will strive to achieve five strategic goals:

- **Maximised programme delivery** Optimised ways of working, with clear direction provided by the programme delivery team.
- **Customer centred focus** A positive customer journey is central to all activities across the Land and Property team.
- **Fully integrated workforce** A fully integrated team is established, with clear accountabilities that empower ownership and decision-making.
- **Empowered people** People are empowered through structured professional development, targeted upskilling and appropriate delegations of authority.
- **Scalable and efficient measures** The Land and Property team continues to scale and increase efficiencies within its capabilities, driven by a culture of continuous improvement.

More details can be found at

<https://www.gov.uk/government/publications/hs2-land-and-property-review-2020>

## Ongoing work programme

The HS2 Ltd and DfT teams are committed to making further progress towards the objectives set out in the 2020 Review, and as the Residents' Commissioner I am involved in a working group which aims to move those objectives forward.





# Discretionary property schemes overview

I have sought to monitor discretionary schemes and to look for ways (where practicable) to improve visibility and accessibility to those who qualify for them (see [Guide to HS2 property schemes](#)).

I have focused on take-up and efficacy of three key schemes: Rural Support Zones, Homeowner Payments (HOP) and Need to Sell (NTS).

## Rural Support Zones – Phases One, 2a and 2b

The Rural Support Zone is the area outside the surface safeguarded area and up to 120m from the centreline of the new railway in rural areas. It offers two options – voluntary purchase or cash offer. The cash offer was introduced with the aim of maintaining community cohesion.

As of 31 October 2022, 861 applications had been received, with 732 acceptances, 142 voluntary purchases completed and 540 cash-offer payments made.

## Homeowner Payments – Phases One and 2a

The Homeowner Payments (HOP) scheme was introduced in March 2017 for owner-occupiers within 300m of the centreline of the Phase One route, following the grant of Royal Assent for Phase One. It was extended and the payments uplifted on the granting of Royal Assent for Phase 2 in February 2021. The HOP scheme aims to share the benefits of the railway early in areas not in close proximity to stations (after the railway is opened for public use) and is not designed to compensate homeowners for any potential impacts resulting from the pre-construction works or the construction and/or operation of the railway.

As of 31 October 2022, 1089 applications have been received, with 913 acceptances and 898 payments made.

## Need to Sell – Phases One, 2a and 2b

The NTS scheme is open to owner-occupiers who can demonstrate that they have a compelling reason to sell but are unable to do so – other than at a significant loss – as a direct result of the announcement of the HS2 route or, if they are unable to sell their property, would face an unreasonable burden in the next three years.

As of 31 October 2022, 979 applications have been received and the average period from offer acceptance to exchange of contracts stands at 136 days. This period tends to be beyond the control of HS2 Ltd, and is often the result of delays from the applicant and/or their legal representatives.

For the avoidance of doubt, DfT used the 2020 Land and Property Review to refresh the suite of discretionary land and property schemes, launching the new Streamlined Residential Blight (SRB) scheme following public consultation and stakeholder engagement. The SRB scheme offers a simpler route for selling eligible properties to the secretary of state, reducing the need for complex negotiations. Another scheme, the Crop Loss Expedited Payment (CLEP) scheme, allows farmers to receive compensation as soon as their land is possessed, so they don't have to wait for the losses they have incurred. Both have resulted from bottom-up feedback and dialogue.

## NTS scheme variation (NTS 2) and panel review

In the 2020 Land and Property Review, HM Government made a commitment to explore giving the public more choice in accessing non-statutory discretionary schemes. In 2021, the government consulted on a variation of the NTS scheme, which would enable a successful applicant to return to the market to sell their home at a blighted price, with the government compensating the vendor for the difference (up to a threshold) instead of buying the property. The vendor would also receive an incentive payment. In February 2022, the government published its response to the public consultation ([2021 HS2 Land and Property Review Proposals Consultation](#)) and DfT is currently undertaking economic analysis and market research to produce a full business case for piloting the variation.

Meanwhile, as part of its iterative strategy on improving its service (in line with the ministerial review), I welcome recent efforts by HS2 Ltd in September 2022 to:

- seek ways to make the NTS discretionary scheme more efficient, timely and people-focused
- collate qualitative and quantitative data from NTS panel members to achieve this end
- review the efficacy of the five criteria used in the scheme.

This remains a work in progress, but a positive development nonetheless, and I was grateful to receive a briefing on this project in October. It is an area of work to which I will return in due course.

## **Prolonged Disruption Compensation scheme – efficacy and uptake**

The Prolonged Disruption Compensation scheme is designed to compensate (via cash payments or temporary rehousing) those householders most affected by construction noise related to the building of HS2. It arose from recommendations by the House of Lords Phase One Hybrid Bill Committee.

So far, the uptake has been disappointing, despite HS2 Ltd spending large sums of money to create and develop the scheme, and engaging with residents (employing external consultants and publicising the scheme in so doing).

My predecessor as Residents' Commissioner lobbied very robustly over a number of years for this scheme to be established. She has rightly called for the scheme to be properly reviewed, re-evaluated and relaunched, and it is my view that it could potentially be perceived as a scheme that currently sets the (noise) bar so high as to be meaningless, resulting in a "straw man" exercise that will attract reputational damage to HS2 Ltd and DfT. To their credit, both stakeholders are mindful of this and are working together to address this issue, and both myself and the HS2 Construction Commissioner, Sir Mark Worthington, have been involved in the early stages of this project.

## **Ongoing issues**

Despite positive incremental progress on addressing residents' concerns since the publication of the Land and Property Review, there are areas where more work needs to be done, namely:



- Consistent best practice at all levels throughout the whole HS2 Ltd supply chain across the entire HS2 line of route.
- Undertakings and assurances (U&As) by HS2 Ltd, given as part of the Parliamentary scrutiny and oversight petitioning process for Phases One and 2a, need to be carefully monitored for consistent application, non-compliance and variation. Those Phase One U&As without a compliance plan need to be reduced in number. HS2 Ltd is preparing a bespoke briefing for the independent commissioners on U&As that will be available shortly.
- There needs to be a continued focus on adherence to S.61 of the Control of Pollution Act 1974 in respect of construction site working hours (an issue which the Construction Commissioner has raised consistently).
- HS2 Ltd's support and preference for alternative dispute resolution (ADR) could perhaps be more widely promulgated as a quicker and more accessible alternative to the tribunal regime of the Upper Tribunal (Land Chamber) in land and property disputes. I am pleased that revised guidance is being prepared that will streamline the procurement of third-party mediators, experts and evaluators. I look forward to this being published shortly.
- Delays in compensation payments are a perennial issue but HS2 Ltd needs to keep its advice and guidance topical and accessible. Claimants need to understand the constraints in respect of the provision of documentary evidence in a timely fashion and adherence to the value-for-money criteria governing such payments.
- The complexity of the body of case law and legislation (colloquially known as the Compensation Code) is a regular complaint, as is, to a lesser extent, the interest rates paid to claimants and the limitation period for claims to the Upper Tribunal (Lands Chamber). Strictly speaking, these are all outside the control and legal authority of HS2 Ltd.
- Other issues raised have been fencing disputes, timeliness of design statements and Management Mitigation Agreements (MMAs), and dissemination of detailed maps and drawings in the most accessible format.

# Community and stakeholder strategy

## Measuring progress – recent data

Since the launch of the Community Engagement Strategy by HS2 Ltd in 2017 with its ten community commitments, the ethos of the original Residents' Charter in 2015 and the commitment to "[respecting people, respecting places](#)" seem to have become embedded in the company's activities rather than an add-on or temporary gimmick. HS2 Ltd undertakes regular refreshes and stock takes of the strategy, which was originally developed using focus groups and other qualitative and quantitative research. The company continues to use polling and focus groups to drive its engagement strategy across the whole line of route.

More importantly, the business has moved on from its defensive and negative stance of only a few years ago to a more open, transparent and positive collaboration with communities. It now shows a commitment to better understanding and empathy with the individual circumstances of people who, after all, did not choose to live near Europe's largest infrastructure project.

The latest iteration from October 2021 can be found at: <https://www.gov.uk/government/publications/hs2-ltds-community-engagement-strategy>. It retains the original ten community commitments that help to inform the measurement of progress, as enunciated in the twice-yearly ministerial statements.

## Developments introduced during 2022

The new faster response time for urgent enquiries has been successful, with 100% of the 165 urgent complaints and enquiries received this year being resolved within 48 hours. In total, the company has received 545 complaints since April 2022, and 99% of these were resolved in 20 working days or fewer; 100% were concluded at the first stage of the complaints process.

HS2 Ltd has published improvements to its complaints procedure and the accompanying booklet has been accredited by the Plain English Campaign. It has also introduced a single management system for community engagement and complaints handling across both its organisation and supply chain. This means that there is a consistent record for all contractors working in a

location, which allows HS2 Ltd staff to respond more effectively.

I am pleased to record that HS2 Ltd is proactively informing communities of its work through its 'In your area' websites. This helps to keep people up to date with developments in their neighbourhoods, and HS2 Ltd has sent regular email updates to more than 24,100 subscribers, complemented by newsletters and maildrops.

Since 2018, HS2 Ltd has engaged with more than 106,700 people at 9988 engagement activities, and there have been over 882,400 visits to 18 local community websites across the route.

## Visitor centres and community outreach

HS2 Ltd wish to ensure that people know whom to contact should they have a question or need to raise a concern, with clear signage displaying the Helpdesk number across the whole line of route.

HS2 Ltd staff are now proactively involving and engaging new people through initiatives such as the mobile visitor centre, which I visited in May at Chipping Warden in Warwickshire. This mobile centre has visited communities across the whole of the central part of the Phase One route and helped HS2 Ltd staff to meet over 1000 people.

In the West Midlands, pop-ups were arranged over the summer and staff talked to more than 1800 people about the opportunities for local people on the project.

The company has expanded the "behind the hoardings" programme of site visits, bringing local communities inside construction sites to meet the workforce and see the work up close, which has been generally well-received. This means that the recommendations relating to this work in the 16th Residents' Commissioner Report in 2021 have been achieved. This is real demonstrable evidence that HS2 Ltd is living by its four basic community engagement tenets, namely:

- Informing
- Involving
- Responding
- Consulting.

My predecessor as Residents' Commissioner was keen that HS2 Ltd not only conceded when it had made mistakes and differed from plans but that it actively sought to learn lessons from those errors, which sometimes occurred in its engagement with the community. My sense is that this is indeed the case. Of

course, more progress is still to be made and further lessons are to be learned from case studies where engagement did not go according to plan.

On a positive note, the Integrated Project Teams are working well and are driving best practice and consistency in communications with local residents; however, there are still occasions where local people feel “bounced” by short-term operational changes. These changes are often driven by the convenience of the supply chain with insufficient thought for the impact on wider stakeholders. Temporary roadworks, traffic lights and traffic calming, HGV and plant movement, and road closures are among the most frequent issues of concern.

HS2 Ltd needs to revisit all its contractual arrangements and service level agreements with contractors to ensure that protocols are in place to deliver timely information in a clear and consistent manner to all householders affected by short-term as well as medium-term construction-related disruption.

## **HS2 Community and Environment Fund (CEF) and Business and Local Economy Fund (BLEF)**

More than £12.8 million has so far been granted to 224 local projects in Staffordshire, Warwickshire, Hertfordshire and Greater London. These funds (CEF and BLEF) are available to communities and business groups that have been disrupted by the construction of the railway. Awards are beginning now in Phase 2a, with £129,000 granted to five projects thus far.

An example of a CEF project is that of Brackley Town Football Club in Northamptonshire, which was recently awarded £75,000 by HS2 Ltd to rebuild their clubhouse following a fire in 2019. The facilities will support a variety of youth and community sports programmes, including a new women’s football team. HS2 Ltd also runs community investment programmes throughout the Phase One line of route, supporting local communities through volunteering.

A new Biodiversity Investment Fund (BIF), dedicated to the creation and restoration of ecological habitats, was launched in early 2022 and this aspect of the legacy strategy of HS2 Ltd has attracted support from a number of line-of-route MPs. The funds are independently administered by the registered charity Groundwork UK, with oversight from an independent panel.

## Further engagement initiatives

The recent inaugural HS2 Community Engagement Strategy “Respecting People, Respecting Places” inspiration awards, held in Birmingham on 1 November 2022, were a very welcome attempt to consolidate the process of striving for excellence in community engagement across the whole organisation (including the supply chain). The entries were of a high standard, with awards in practical change-making, legacy building and communications. Both independent commissioners acted as judges for these awards, which I feel sure will grow in importance as the project evolves.

## Epidemiological health study

The Phase 2a Bill House of Commons Select Committee was made aware by petitioners of the impact of the project on the mental health of affected parties; this impact applies to all affected stakeholders currently in construction, safeguarding and pre-construction.

As such, HS2 Ltd was directed to commission an epidemiological health study focusing on the potential effects on the mental health and wellbeing of those involved in building the railway, and this study will provide a clearer overview of the likely impacts ahead of the construction of Phase 2a. Work on the study is now underway, having been started in June 2021.

DfT officials and ministers are closely involved in the study, and the two HS2 independent commissioners also have a watching brief on the workstream.

## Next steps

I intend to continue with my programme of visits and route tours and to seek the perspectives and unique viewpoints of residents, either via their elected representatives and community and professional bodies or individually. I intend to intercede with HS2 Ltd and DfT as a “critical friend” where necessary.

HS2 is a unique endeavour that most of us are unlikely ever to see again, but its size, economic heft and ambition must not preclude HS2 Ltd as a corporate body from treating all those with whom it interacts with decency, respect, empathy and professionalism – and it’s my challenge to ensure that this transpires.



In the meantime, I am available on email via:

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