

HS2

Rural landowners and occupiers guide

This factsheet describes the principles that are expected to be applied to agricultural and rural land property matters for the proposed Western Leg hybrid Bill.

Version 1.0

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1 Introduction

- 1.1.1 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. The Western Leg of Phase 2b comprises an extension of the network to Manchester and a connection to the West Coast Main Line at Golborne, and is referred to as the Western Leg hybrid Bill. The Eastern Leg of Phase 2b currently comprises an extension of the network from the West Midlands through the East Midlands to Leeds.
- 1.1.2 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.
- 1.1.3 The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act (2017). In July 2017, the Government introduced a hybrid Bill to Parliament to seek powers for the construction and operation of Phase 2a.
- 1.1.1 In February 2020, the Government announced its intention to draw up an Integrated Rail Plan. This will recommend a way forward on scoping, phasing and sequencing the delivery of HS2 Phase 2b, Northern Powerhouse Rail, Midlands Rail Hub and other proposed rail investments across the north. At the same time, the Government asked HS2 Ltd to prepare the Western Leg hybrid Bill, provided it does not prejudge any recommendations or decisions that will be taken in this plan, which will be published by the end of the year.
- 1.1.2 It is intended to deposit a Western Leg hybrid Bill seeking powers to construct and operate this phase in Parliament in early 2022 or sooner if possible (the Proposed Scheme). The work to produce the Bill will include an Environmental Impact Assessment (EIA), the results of which will then be reported in an Environmental Statement (ES). The ES would be submitted alongside the Bill when it is introduced to Parliament. As was the case with Phase One and Phase 2a, when the Bill is introduced to Parliament the Secretary of State will also publish draft Environmental Minimum Requirements (EMRs). The EMRs will set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.1.3 A series of information papers were produced for the Phase One and Phase 2a hybrid Bills, explaining the commitments made in those Bills and EMRs. It is the Secretary of State's intention to follow a similar process for the Western Leg Bill. These information papers will be used to provide information about the Proposed Scheme itself, the powers contained in the Bill and how decisions on

the Proposed Scheme have been reached. It is currently proposed that these information papers for the Western Leg of Phase 2b will be published at the time the Bill is introduced in Parliament.

- 1.1.4 The Secretary of State for Transport will be ‘the Promoter’ of the Western Leg Bill. The Promoter will also eventually appoint a body responsible for delivering the Proposed Scheme under the powers to be granted by the Bill. This body will be known as the ‘nominated undertaker’. There may well 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 Western Leg EMRs and any commitments provided in the Western Leg information papers.
- 1.1.5 These Western Leg factsheets have been produced to provide information on the emerging proposals for measures to manage the design process for the Proposed Scheme and to control impacts which may arise from the construction and operation of the Proposed Scheme. These measures may then be applied to the Western Leg as commitments made through the eventual Bill, EMRs or information papers.

2 Overview

- 2.1.1 This factsheet describes the principles that are expected to be applied to agricultural and rural land property matters for the proposed Western Leg hybrid Bill.
- 2.1.2 Many site-specific concerns can only be resolved following Royal Assent to the Bill and development of the detailed design. The Promoter recognises that this may present difficulties for rural landowners and occupiers.
- 2.1.3 The principles set out in this factsheet would be adhered to throughout the construction of the Proposed Scheme. Complaint and dispute resolution processes are noted in Section 9.

3 Land acquisition and Compensation Code

- 3.1.1 Powers to build and operate the Proposed Scheme will be sought in a hybrid Bill, which will be considered by Parliament. The compulsory purchase powers sought in the Bill will follow the principles of the Compensation Code.

3.1.2 The Secretary of State for Transport will exercise powers of compulsory purchase with the nominated undertaker acting as the Secretary of State's agent. Land permanently required for the Proposed Scheme will be purchased. Where land is only temporarily required - for example, during the construction period - the nominated undertaker will discuss with the owner the temporary use of that land where practicable.

4 Communication with landowners and occupiers

4.1.1 It is recognised that good communication will assist all parties during the construction of the Proposed Scheme.

4.1.2 The draft Code of Construction Practice (CoCP) sets out how the nominated undertaker will liaise with affected landowners, occupiers and agents. The nominated undertaker will require its contractors to:

- advise landowners, occupiers and agents, as appropriate, regarding the intended commencement of construction works in areas of the site adjacent to agricultural and forestry holdings, and when any agricultural and forestry land used temporarily is intended to be returned to its former use or uses;
- advise landowners, occupiers and agents, as appropriate, regarding the provision of accommodation works; and
- advise landowners, occupiers and agents, as appropriate regarding, the programme for carrying out works and the access routes to be used.

4.1.3 The proposals within the draft CoCP are likely to include a construction operations website and a 24-hour telephone helpline for enquiries about construction activities. This would also be a first point of contact in the case of any emergency or an incident. It would also include a procedure for handling complaints and a complaint resolution system, as detailed from paragraph 8.7 onwards of this factsheet.

4.1.4 HS2 Ltd will develop and issue a Farmers and Growers Guide prior to Bill deposit to explain the HS2 policies and approach to landowners and occupiers on agricultural matters.

5 Date of entry

- 5.1.1 The Bill will provide for a minimum of three months' (or in Scotland 2 months and 28 days') formal notice of entry to be given where land is to be acquired outright. A longer notice period will be provided where reasonably practicable taking into account the construction programme.
- 5.1.2 After Royal Assent of the Bill the nominated undertaker will seek to be in regular communication with landowners during the construction of the Proposed Scheme and will seek to provide advice on the proposed timescale for the start and duration of works affecting their properties.

6 Construction activity

- 6.1.1 The construction activities will be controlled through provisions contained within the Bill and through the EMRs, to which the nominated undertaker will be bound. The Bill will also enable qualifying local authorities to exercise control over certain construction arrangements.
- 6.1.2 The EMRs will include the draft CoCP, which will set out a series of proposed measures and standards of work, to be applied by the nominated undertaker and its contractors throughout the construction period to provide:
- effective planning, management and control during construction to control potential impacts on people, businesses and the natural and historic environment; and
 - the mechanisms to engage with the local community and their representatives throughout the construction period.
- 6.1.3 Controls will be implemented to mitigate potential impacts on soils, farms, and farm-based businesses, including maintaining access, and for this purpose the nominated undertaker will:
- identify the farms and types of farms adjacent to the construction site;
 - identify watercourses and, where known, field drainage layouts and outfalls into watercourses or ditches, fixed irrigation pipes and sources of irrigation water and fixed water supplies for livestock;
 - maintain details of the owners, occupiers and agents for land adjacent to the construction site; and
 - maintain details of the husbandry associated with the areas of land adjacent to the construction site.

6.1.4 The controls will include the following, as appropriate:

- protecting agricultural land adjacent to the construction site, including provision and maintenance of appropriate stock-proof fencing and avoidance of traffic over the land that would lead to soil compaction;
- reinstating any agricultural land which is used temporarily during construction, where this is the agreed end use;
- detailing farm accesses which may be affected by construction, including the manner in which farm access will be maintained and avoidance of traffic over land which is used temporarily during construction; and
- providing a method statement for stripping, handling, storage and replacement of agricultural, forestry and woodland soils to reduce risks associated with soil degradation on areas of land to be returned to agriculture, forestry and woodland following construction. This will include any remediation measures necessary following completion of works.

7 Measures to reduce potential impacts on agricultural, forestry and soil resources

7.1.1 Appropriate measures will be implemented, in accordance with the CoCP for the sustainable use of soils on construction sites, in relation to undertaking works on or adjacent to agricultural and forestry land. The CoCP will also include requirements in relation to the control of run-off and dust so far as applicable to protecting soils and agricultural crops.

Generally

7.1.2 The nominated undertaker will require its contractors to manage their site activities and working methods to protect the quality of surface water and groundwater resources from other adverse effects, including significant changes to the hydrological regime, through controls to manage the rate and volume of runoff. Monitoring systems will be employed during the construction works and emergency procedures will be put in place in the case of any pollution incidents. Best practice measures will be used (e.g. through the use of silt traps and the re-use of water in wheel washers). Where required, the contractor will include arrangements to obtain appropriate approval for works from the relevant

regulatory body or statutory undertaker, which could affect a surface water or groundwater resource.

7.1.3 The provision of on-site workers' temporary living accommodation in the construction compounds will be considered and approved in advance by the local authority and be managed in accordance with arrangements set out in that approval. The location of temporary living accommodation will be approved by the relevant local authority and be subject to the same environmental control measures as are set out in the CoCP for other construction works.

7.1.4 Generally, workers will not be allowed pets on site or in their on-site accommodation. The only dogs allowed on site (if at all) will be guide dogs or hearing dogs, security or detection dogs.

Agriculture, forestry and soils

7.1.5 Prior to works commencing, surveys will be undertaken to record agricultural and forestry soils disturbed for the Proposed Scheme. These surveys will include as appropriate:

- topsoil and subsoil, covering depth, texture and structure;
- drainage, irrigation and water supplies;
- roads, accesses and paths;
- hedgerows, ditches, field boundaries and irrigation ponds; and
- forestry, including individual trees and small woodlands.

7.1.6 Where land used temporarily for construction is to be reinstated to agricultural and forestry use, reinstatement works will be implemented in accordance with the contract specification and Department for Environment, Food and Rural Affairs (Defra) guidance where appropriate.

7.1.7 Reasonable precautions will be taken in relation to the handling and storage of agricultural and forestry soils, including the following, as appropriate:

- the separate handling and storage of different soils, particularly topsoils and subsoils;
- handling soils that are in a suitably dry condition and not during wet weather to avoid long-term damage to soil structure from compaction;
- seed or seal medium or long-term excavated material and soil stockpiles;

- the prevention of soil contamination with chemicals or other materials; and
- the control of weeds on soil stores either through treatment or removal.

- 7.1.8 Reasonable precautions will be taken during the design and construction of the Proposed Scheme to identify, protect and maintain existing land drainage, irrigation and livestock water supply systems.
- 7.1.9 Measures will be implemented to prevent the spread of invasive and non-native species. Measures to prevent the spread of injurious weeds generally from the construction site to adjacent land will also be implemented.
- 7.1.10 The nominated undertaker will require its contractors to comply with the relevant guidance issued by Defra regarding the prevention, as far as reasonably practicable, of the spread of soil-borne, crop and animal diseases. Appropriate measures will be implemented to control run-off to reduce any risks associated with disease transmission.
- 7.1.11 Appropriately qualified environmental management staff, whose responsibility will include the monitoring of topsoil and subsoil stripping, handling, storage and replacement, as appropriate, will be appointed to facilitate compliance with requirements in this section of the CoCP in relation to soils.

8 Accommodation works

- 8.1.1 The provision of permanent accommodation works (such as accommodation bridges, underpasses, fencing and access arrangements) will depend on the individual circumstances on the holding and will usually be developed as the detailed design of the Proposed Scheme is undertaken. Accommodation works will have regard to the commercial justification by the landowner, such as the value, use and location of the lands concerned.
- 8.1.2 The nominated undertaker will discuss with each landowner the provision and timing of accommodation works as part of the compensation package.
- 8.1.3 The structures of accommodation bridges, underpasses, culverts or sleeves over or under the Proposed Scheme will be maintained by the nominated undertaker. The maintenance of any surfaces or fences will need to be determined on a case-by-case basis. The landowner will normally be responsible for any surface over which that landowner will have exclusive use.
- 8.1.4 During construction, the nominated undertaker will maintain access to the rural landowner's land under controlled conditions where necessary and reasonably

practicable, and without prejudice to the landowner's rights to disturbance compensation.

Utilities

- 8.1.5 Where private utilities for a holding are affected by the proposed works, alternative supplies will be provided where reasonably practicable.
- 8.1.6 Where the public utilities for a holding are affected by the proposed works, except when agreed otherwise, alternative supplies will be installed before the existing supply is disconnected.

Disputes

- 8.1.7 The CoCP will help to limit disturbance from construction sites and also help to keep the number of complaints and claims to a minimum.
- 8.1.8 In the event of a claim, the landowner will have access to the Small Claims Scheme and the Construction Commissioner procedures which will be available to assist in reaching a resolution. These policies and measures are not a substitute for the normal legal remedies open to a claimant, but are expected to allow claims to be handled less formally and more quickly than would otherwise be possible. Further information on the Small Claims Scheme can be found in section 9 below.

9 HS2 property schemes

- 9.1.1 In addition to the statutory processes that relate to the safeguarded area, property owners whose land is inside or outside the safeguarded area not required for HS2 works or is outside of the safeguarding area may be eligible for one of a number of non-statutory property schemes. These schemes have been formulated specifically for properties affected by HS2. They include property purchase schemes and cash payment schemes. Property owners may have more than one option available to them.
- 9.1.2 Please see the 'Guide to HS2 Property Schemes' for further information:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525900/Guide_to_HS2_property_schemes.pdf

Small Claims Scheme

- 9.1.3 Following Royal Assent of the Bill, the Nominated Undertaker will establish a small claims procedure to provide a positive and clear mechanism for minor

construction-related residential, business or agricultural claims, up to a value to be determined at the time.

- 9.1.4 It is hoped that any claim could be successfully dealt with through this mechanism. However, if a claim could not be resolved satisfactorily, the claimant would be able to write to the Construction Commissioner requesting resolution and settlement.

Construction Commissioner

- 9.1.5 An independent Construction Commissioner will be appointed by the Promoter to provide an independent arbitration service in relation to the proposed Small Claims Scheme.
- 9.1.6 The primary role of the Construction Commissioner will be to help resolve complaints about damage or problems caused by construction activity associated with the Proposed Scheme. It is envisaged that the Construction Commissioner will act primarily as a last resort intermediary when other avenues have failed.

Third-party claims

- 9.1.7 The general legal position regarding third-party claims for the Proposed Scheme is not significantly different from that applying to other public works (e.g. highway schemes). However, the introduction of the small claims procedure is expected to facilitate prompt resolution of claims.

10 Independent advice

- 10.1.1 It is important that claimants obtain the right professional advice from practitioners experienced in compulsory purchase and compensation. The Royal Institution of Chartered Surveyors operates a customer helpline that can put people in touch with suitably experienced firms in their area and offer up to 30 minutes free consultancy.
- 10.1.2 Their contact details are:

Royal Institution of Chartered Surveyors

12 Great George Street (Parliament Square)

London

SW1P 3AD

Tel: 024 7686 8555

contactrics@rics.org

- 10.1.3 The Central Association of Agricultural Valuers may also be able to assist owners in rural areas. Their contact details are:

The Central Association of Agricultural Valuers

Harts Barn Farmhouse
Monmouth Road
Longhope
Gloucestershire
GL17 0QD
Tel: 01452 831815
enquire@caav.org.uk

- 10.2 In Scotland, the Scottish Agricultural Arbiters and Valuers Association, which is affiliated to the CAAV may also be able to assist owners in rural areas. Their contact details are:

Scottish Agricultural Arbiters and Valuers Association

Cothill
Duns, Berwickshire
TD10 6YW

- 10.2.1 The Central Association of Agricultural Valuers also offers a "Find a CAAV Member" tool to see a list of members in their area.
- 10.2.2 The Royal Institution of Chartered Surveyors has published a Professional Statement in April 2017 that is mandatory for chartered for surveyors advising in respect of compulsory purchase and statutory compensation. A copy can be found at:
<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/surveyors-advising-in-respect-of-compulsory-purchase-and-statutory-compensation-1st-edition-rics.pdf>

11 More information

- 11.1.1 Further factsheets and details on the Proposed Scheme can be found at:
www.hs2.org.uk/phase2b