



Business relocation

This factsheet describes HS2 Ltd's expected approach to helping businesses and other organisations that will have land taken for the construction or operation of the Proposed Scheme.

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 HS2 Ltd's expected approach to helping businesses and other organisations that will have land taken for the construction or operation of the Proposed Scheme.

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

3 Compensation

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

3.1.2 The 'Compensation Code' is a collective term for the law relating to compensation for compulsory acquisition originating from Acts of Parliament and case law. Its general purpose is to provide fair compensation for a person whose land has been compulsorily taken.

3.1.3 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 cost of such relocation to be taken into account under the heading of disturbance compensation.

4 Additional time to relocate

4.1.1 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.

4.1.2 In relation to Land and Property acquisitions, the provisions within the Bill will apply the general law which requires that at least three months' (in Scotland 2 months and 28 days') notice of entry prior to entering and taking possession of a property is provided. However, the Secretary of State or the nominated undertaker will make arrangements 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 construction programme for the Proposed Scheme.

5 Financial assistance with relocation

5.1.1 This may be available, on a discretionary basis, in two ways depending on the stage of the project:

- An advance payment may be made in advance of taking possession to support the business in its relocation; and
- Financial support in the form of a loan may be offered in advance of Royal Assent to enable a business' relocation.

5.1.2 In either scenario, it is envisioned that:

- payment of up to 90% of the nominated undertaker's estimate of the compensation, to support cash flow;
- payment of reasonable interim professional fees in accordance with our Fee Policy, to support cash flow; and
- 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.

5.1.3 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.

6 Bill Powers to acquire land for relocation

6.1.1 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.

6.1.2 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.

6.1.3 Where the claimant establishes that his business cannot reasonably be relocated from its current premises, the claimant is entitled, under the Compensation Code, to be compensated for the total extinguishment of the business, the amount payable being the value of his business as a going concern.

6.1.4 While the Secretary of State considers this is a fair basis for compensation, he recognises the potential impact that extinguishments could have on the wider communities affected. He 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

6.1.5 In exceptional cases, the Bill will provide 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.

6.1.6 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.

- 6.1.7 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 the Bill.
- 6.1.8 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.
- 6.1.9 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.
- 6.1.10 The Secretary of State will take the report into account in deciding whether, subject to the procedures mentioned below, the power should be exercised.
- 6.1.11 The power to make a Compulsory Purchase Order (CPO) for an appropriate relocation site 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 inspector or, in Scotland, reporter at a Public Inquiry or public hearing. As part of his examination the inspector or reporter must consider the proportionality of making the proposed CPO, in the light of its impact on affected landowners and other interested persons.
- 6.1.12 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 this clause to provide planning permission for any replacement development.

6.1.13 It should be noted that the use of this compulsory acquisition 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

6.1.14 Under a separate power proposed in the Bill, the nominated undertaker will have 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.

6.1.15 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 or, in Scotland, the Town and Country Planning (Scotland) Act 1997.

6.1.16 The Secretary of State will need to be satisfied that the following circumstances exist before the nominated undertaker can either exercise the 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.

6.1.17 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.

6.1.18 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.

7 Independent advice

7.1.1 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. 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

7.1.2 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

GL17 0QD

Tel: 01594 810701

enquire@caav.org.uk

- 7.1.3 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

- 7.1.4 The Central Association of Agricultural Valuers also offers a "Find a CAAV Member" tool to see a list of members in their area.

8 More information

- 8.1.1 Further factsheets and details on the Proposed Scheme can be found at:
www.hs2.org.uk/phase2b
- 8.1.2 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>