

HS2

Using subsoil for HS2





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.

High Speed Two (HS2) Limited
Two Snowhill
Snow Hill Queensway
Birmingham B4 6GA

Phone: **08081 434 434**

General email enquiries: **HS2enquiries@hs2.org.uk**

Website: **<https://www.hs2.org.uk>**

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Introduction

High Speed Two (HS2) is the new high-speed railway connecting London and the West Midlands. We are HS2 Ltd, the company set up by the Government to design and build HS2. We are committed to being a good neighbour and treating the communities where we work with respect and compassion. You can find information about the plans for HS2 on our website at: www.hs2.org.uk

We need to have a legal right to use subsoil in order to build the tunnels for the high-speed trains and other rail infrastructure that is below ground.

We may also protect our tunnels through legal means, including safeguarding and setting restrictions – known as restrictive covenants – on future development of the land above the tunnels.

This guide explains:

- how and why we obtain and use subsoil that is beneath land and properties;
- the legal permission we need and your rights to compensation;
- how we build the tunnels; and
- how we keep you informed.

Subsoil and who owns it

Subsoil is the layer of earth at least nine metres below the surface of the ground. Under English property law, and unless specified otherwise in ownership documents, freehold ownership of land includes the ground below the surface to the centre of the earth. In some cases, leaseholders may share these rights, which may include rights to the subsoil beneath neighbouring public roads or streets.

Why we need subsoil for HS2

A significant part of the HS2 route is under the ground. Tunnels extend from the new Euston station to the super-hub at Old Oak Common in west London and onto Ruislip. The Chiltern tunnel goes from the Colne Valley to South Heath in Buckinghamshire, and there are further tunnels at Long Itchington in Warwickshire and Bromford in Birmingham. Subsoil is excavated as these tunnels are being bored.

Our legal authority to use subsoil

Section 8 of the High Speed Rail (London – West Midlands) Act 2017 ('the Act') authorises us to obtain and use subsoil to build HS2. The Act authorises the compulsory purchase of land, including subsoil, within defined vertical and horizontal limits.

Plans and section drawings accompanying the Act show the depth of the HS2 tunnels. Only minor upward variations to these depths are allowed, but there is no limit on how far the tunnels may extend downwards.

HS2's tunnels

The main HS2 tunnels are twin-bored, made up of two parallel tunnels (for 'up' and 'down' trains) each containing a single track. Their internal diameters range from 7.8m to 10.5m and run at a depth of 9m to 100m. Tunnel portals – the tunnel's openings and exits – are constructed where the tracks rise to the surface.

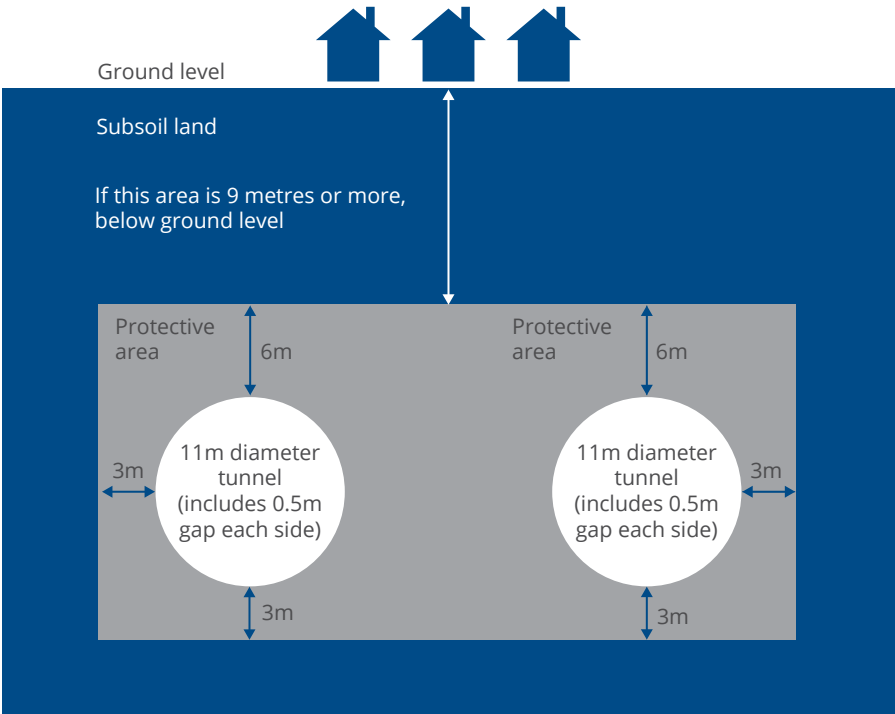
How the tunnels are built

The tunnels are built using tunnel boring machines (TBMs), which are designed to deal with a variety of ground conditions. The TBMs start off from our construction sites at Old Oak Common, Ruislip, the Colne Valley, and Southam and Water Orton in Warwickshire.

You can find more information about tunnelling for HS2 and ground settlement here: [**www.hs2.org.uk/documents/hs2-guide-to-ground-settlement**](http://www.hs2.org.uk/documents/hs2-guide-to-ground-settlement)

The subsoil needed for our tunnels

HS2’s tunnels are built within a rectangular-shaped stratum, or layer, of subsoil. They measure at least 40m wide and 20m deep within the limits defined in the plans and section drawings accompanying the High Speed Rail (London – West Midlands) Act 2017. See figure 1, below, for an example.



Subsoil land obtained for tunnel and protective area

We use an area of subsoil outside the tunnel limits as a protective area to maintain the long-term safety of the railway. The size of the protective area varies for each tunnel to avoid conflicting with existing structures.

We may make minor adjustments to the design of the tunnel up to the point where we take the subsoil. Property owners or landowners are told the depth of the layer and proposed structures when plans to obtain subsoil rights are confirmed.

The legal process for obtaining and using subsoil

We follow a statutory process known as a general vesting declaration (GVD) procedure to obtain subsoil for HS2. We send a preliminary notice before the Secretary of State for Transport makes the GVD, and we ask you to fill in a questionnaire to confirm that you own the relevant land above the subsoil.

A second notice, called a notice of making, tells you that the Secretary of State has made the GVD. The notice states that the ownership of the subsoil automatically transfers to the Secretary of State within three months, without the need for it to be formally transferred (or 'conveyed'), as is usually the case in house purchases.

We ask you, as the owner of any affected land and property, to fill in and return a form confirming whether you want to accept the sum we are offering for your subsoil.

A third and final notice confirms the legal 'vesting' date once we are satisfied that all the notices of making have been issued correctly.

On behalf of the Secretary of State, we register ownership of the subsoil at HM Land Registry.

How you'll be compensated

We use a fixed-value compensation scheme for subsoil, in common with major railway projects that feature tunnelling. The land will vest in the name of the Secretary of State for Transport even if you choose not to accept our compensation offer. You are free to use a professional adviser to negotiate a claim. The Royal Institution of Chartered Surveyors has an advice helpline on 02476 868 555.

In the compulsory purchase of land, compensation relates to the market value of the land or, in this case, the subsoil. Subsoil is considered to be of little market value for railway projects because of its depth below the surface and its limited use.

We are offering a fixed payment of £50 per parcel of land and £250 for professional fees, whether or not you use an adviser. The offer is for the piece of land, regardless of the number of owners of that land.

Claiming your compensation

When you receive the second notice (the notice of making), you also receive a form asking you to say if you accept the fixed sum we are offering or want to make a claim for compensation. If you accept the fixed sum, all owners of the land need to sign a standard form of receipt, which acknowledges that the payment is a full and final settlement for the subsoil.

If you do not accept our offer, by law you must submit a compensation claim within six years of receiving notice of vesting. After this time, the right to make a compensation claim ends. If we don't accept your claim for compensation, the case will be referred to the Upper Tribunal (Lands Chamber).

How safeguarding and restrictive covenants affect you

We need to protect tunnels from future development. We do this using 'Safeguarding Directions' which are an established part of the planning process. Where Safeguarding Directions are in place Local Planning Authorities must consult with the authority named in the directions (HS2 Ltd) on all planning applications received within the safeguarded area. However, in locations where the line of route is in a tunnel, generally the type of Directions imposed are categorised as 'sub-surface safeguarding' so applications for planning permission are exempt from the requirement to consult with us, unless the proposed development would extend below ground level. Where we are consulted on applications, we work with developers to ensure their proposals do not affect the railway.

The High Speed Rail (London – West Midlands) Act 2017 allows the Secretary of State to set restrictions on the future use of land, including development and registering these charges on the legal title to land. These restrictions can be made at the same time as the acquiring authority obtain subsoil, or at a later date.

We aim to review Safeguarding Directions after the tunnels are built to make sure we are told about any planning applications that might affect the railway. This review may result in Safeguarding Directions being reissued to ensure that the tunnels are adequately protected.

Questions

If you have any questions about why we need the subsoil or how the process works, or if you would like more information, please contact the HS2 Helpdesk on Freephone **08081 434 434** or email **hs2enquiries@hs2.org.uk**.

Frequently asked questions

What correspondence I can expect from you?

First, you receive a land interest questionnaire and leaflet explaining why we need the subsoil for HS2. We ask you to return the completed questionnaire. The acquiring authority may need to contact you further about this form.

Next, we send you a preliminary notice, setting out the Secretary of State for Transport's proposal to obtain the subsoil beneath your property. This is for information only and you don't have to reply to this notice.

The preliminary notice is followed by the notice of making, which we send you after the Secretary of State has made the general vesting direction concerning the subsoil. At this stage, we ask you to fill in a claim form for the £50 we are offering per parcel of land.

The last correspondence you should receive is a final notice which confirms that ownership of the subsoil has transferred to the Secretary of State. The subsoil now 'vests' with them and the process is complete.

I am a leaseholder or tenant – why have I not received a notice?

We only send notices to the freeholder of the land and to leaseholders who have an interest in all of the land including the land below the surface (subsoil). The subsoil is generally owned by the freeholder, or a leaseholder who has a lease for the whole of the land.

I have also received a ‘form of giving’. Can I ignore it?

The form of giving has two purposes. It allows us to find out if any details we have about you have changed or to find details of other owners we weren’t aware of. If you are in doubt, please fill in the form of giving and return it to us in the envelope provided.

I received two claim forms with the notice of making. Which one should I fill in and return?

If you are happy to accept our subsoil offer (£50 per land parcel and £250 towards professional fees) you and any other owners of the land should fill in and return the shorter form. We’ll do our best to pay you within 28 days.

If you aren’t satisfied with our offer, you should speak to a solicitor and send us the full claim form. If we don’t accept your claim, the matter will be referred to the Upper Tribunal for a decision. The legal costs of going to the tribunal may be awarded against you or us. They may be awarded in full, in part, or not at all.

Keeping you informed

We are committed to keeping you informed about work on HS2. This includes making sure you know what to expect and when to expect it, as well as how we can help.

Our independent commissioner

We have an independent Residents' and Construction Commissioner whose job is to make sure we keep the promises we make in our **community engagement strategy**.

The commissioner helps settle disputes and monitors the way in which we manage and respond to complaints about construction.

For more information, visit:

www.hs2.org.uk/about-us/independent-hs2-commissioner

Holding us to account

If you are unhappy for any reason, you can make a complaint by contacting our HS2 Helpdesk team.

For more information, visit:

www.hs2.org.uk/how-to-complain

Property and compensation

You can find out all about HS2 and properties along the route by visiting our website. You can also find out if you're eligible for compensation. Visit:

www.hs2.org.uk/in-your-area

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Contact us

Our HS2 Helpdesk team are available all day, every day. You can contact them by:



Freephone

08081 434 434



Minicom

08081 456 472



Email

hs2enquiries@hs2.org.uk

Write to

FREEPOST

HS2 Community Engagement

Website **www.hs2.org.uk**

To keep up to date with what is happening in your area, visit:

www.hs2inyourarea.co.uk

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