

HS2 Phase Two:
West Midlands to Crewe
Property Consultation 2015
Consultation document





Department for Transport

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Foreword – Rt. Hon. Patrick McLoughlin MP

HS2 will transform travel in Britain, bringing our cities' economies closer together, delivering reliability and stimulating economic growth across the UK. I want to deliver those transformative benefits as soon as possible. I have previously supported the recommendations of Sir David Higgins to accelerate the construction of the network to Crewe and release the potential of the North-West and I am now able to begin the realisation of these plans.

Alongside my decision to take forward a route for the section of Phase Two from Fradley in the West Midlands to Crewe (Phase 2a), I have announced my intention to introduce a separate hybrid bill to expedite the process to enable construction of the Phase 2a section of HS2. A hybrid bill to set out the work, including where that work will take place and the land that will be required, will be introduced into Parliament in 2017 with the aim of obtaining statutory authority through Royal Assent in 2019. This will enable us to open the Phase 2a section in 2027, rather than 2033 as originally planned.

There is now sufficient certainty to issue safeguarding directions to protect this route and I have done so today. I therefore believe that it is now appropriate and fair to consult on the compensation and assistance that can be offered to those along this first section of Phase Two of the network. The government has always made clear a desire to do more than is required by law to assist owner-occupiers along the line of route of HS2.

Many individuals and groups gave us feedback on our compensation and assistance measures for Phase One. I welcome this level of interest, which helps us to understand the issues of most concern to those affected by HS2.

The proposal is to introduce a long-term package of discretionary compensation and assistance measures in late Spring 2016 – providing certainty about the type of compensation and assistance that can be sought and enabling schemes to be in place to help homeowners with minimum delay. We are asking for your views on this proposal, as we are keen to ensure it is the right approach for the Phase 2a route. I have, however, decided to open the express purchase scheme now on an interim basis to enable those most directly affected to begin planning their future from today. The Exceptional Hardship Scheme also remains open until the full package of schemes is in place, to assist those with an urgent need to sell their home.

I strongly encourage you to help shape Government policy by responding to this consultation.

Phase Two update

In the Government's report *High Speed Two – East and West. The next steps to Crewe and beyond* (2015),¹ published today, we have updated our plans for the rest of the 'Y' network, including stations in Crewe, the East Midlands, Leeds, Sheffield and Manchester.

We recognise that Crewe is already an important hub station, providing connectivity to places such as North Wales, Chester and Liverpool, Shrewsbury and South Wales, and Stoke and Stafford. It also serves an important role for national freight operations, with a number of strategically important freight yards.

However, the railway layout in the Crewe area acts as a constraint on the West Coast Main Line (WCML). Given that passenger and freight demand at Crewe is forecast to grow even without HS2, we are looking at what infrastructure improvements in the Crewe area will be needed to accommodate increasing demand.

We believe that there are benefits to be had from operating a high frequency, high speed service at Crewe. We have therefore, with Network Rail (NR) and High Speed Two (HS2) Limited (referred to in this document as "HS2 Limited"), been examining options for a new station hub at Crewe. NR's work to date has concluded that it is feasible to deliver a Crewe hub station with full HS2 connectivity. They are considering options to enhance the existing station site to enable HS2 trains to stop there, as well as options further south, including at Basford. NR will continue this work so that a decision on how this might go forward can be taken in late 2016.

We have confirmed our plans for accelerating construction of this section of Phase Two, but we have also been working to progress our plans for the whole of Phase Two. We anticipate reaching a final decision on the route next year.

¹ See www.gov.uk/hs2

1 About this consultation

1.1.1 We are seeking the views of the public, in particular those along or near the line of route of the West Midlands to Crewe section of HS2 (Phase 2a), on the proposal to implement the same long-term property compensation and assistance schemes for this section as for Phase One. Once introduced, these measures would replace the current Exceptional Hardship Scheme for this section of HS2. They are:

- Express purchase see page 13
- Extended homeowner protection zone see page 13
- Rent back see page 14
- Need to sell see page 15

Plus, in rural areas where the line runs on the surface:

- A rural support zone, offering the choice of voluntary purchase or cash offer see page 14
- Homeowner payments see page 15

1.1.2 Each of these measures is in addition to the compensation that is required by law.

1.1.3 We are also seeking the views of the public on the proposal to apply the following specific measures to properties above deep tunnels on Phase 2a. The proposed measures, as for Phase One, are:

- 'Before' and 'after' surveys see page 16
- Settlement deeds see page 17
- Purchase of subsoil rights see page 17

1.1.4 We are inviting responses to the following questions:

Question 1

We believe that the compensation and assistance schemes that are available for Phase One of HS2 are also suitable for those living along the Phase 2a (West Midlands to Crewe) section of HS2. Are there any circumstances which you think should be considered to make the proposed schemes more suitable for the Phase 2a section of HS2?

Please provide as much detail as possible.

Question 2

What are your views on the proposed boundary of the rural support zone (RSZ) at the south side of the A500?

Please provide any alternative proposals and as much detail as possible.

1.1.5 This consultation document provides an overview of the statutory compensation that will be available to owner-occupiers affected by HS2 (see Section 4) and then the

proposed discretionary schemes (see Section 5), including why we believe that the Phase One schemes are also the right approach for Phase 2a.

1.1.6 Please see Section 9 of this document on how to respond to the consultation.

2 Our approach to developing and introducing property assistance options

- 2.1.1 As set out further in section 4.1 below, it is the Government's view that due to the duration to plan and construct HS2, the property measures for this project should go beyond those that are required by law. The purpose of this consultation is to seek evidence and views to inform any decision about the assistance that the Government should introduce for those living close to the line of route.
- 2.1.2 **This consultation is about long-term property schemes for Phase 2a (West Midlands to Crewe) only.** We anticipate consulting on proposals for the remainder of Phase Two when there is sufficient information to do so. We expect this to be following a route decision on that section of the network which is expected next year.
- 2.1.3 We could delay consulting on long-term property assistance schemes until next year when a route decision is made for the entirety of Phase Two. However, we consider it important to provide some certainty to those immediately affected as soon as possible and that consulting separately for sections with differently timed route decisions is the best way to achieve that.
- 2.1.4 The long-term property schemes we have implemented for Phase One following public consultations are naturally the starting point for our approach to long-term discretionary property compensation and assistance for Phase 2a of HS2.
- 2.1.5 The proposed schemes that we outline in section 5 of this document are the same as for Phase One. The schemes are designed to be flexible for individual circumstances but we are asking people whether we need to adjust the schemes to account for any specific ways in which their local area is differently impacted or has different needs, at a route-wide level, than areas affected by Phase One.

3 Safeguarding and express purchase

- 3.1.1 As explained in the forward to this document, the Secretary of State has now issued safeguarding directions to protect the Phase 2a line of route from conflicting development.
- 3.1.2 Safeguarding directions also trigger statutory blight. Under the statutory blight regime a property owner within the safeguarded area may be eligible to serve a blight notice, thereby asking the promoter of the scheme (in this instance, the Secretary of State for Transport) to buy their property prior to it being needed for the project. This is explained further in sections 4.2 and 4.3.
- 3.1.3 The discretionary express purchase scheme applies to qualifying owner-occupiers who now have the right serve a blight notice; it does not change the level of compensation they can receive but it relaxes two of the eligibility criteria. To avoid any unnecessary delay in getting assistance to those with a statutory entitlement to sell their property to the government, the express purchase scheme has been put into operation now, on an interim measure basis. Its continued operation is still subject to the outcome of this consultation and views are invited on whether it should remain open for those potentially eligible along the route of Phase 2a going forward.

4 Property and compensation

4.1 Background

- 4.1.1 In the February 2011 High Speed Rail: Investing in Britain's Future² consultation and the HS2 Property Compensation Consultation 2013, the Government set out the rationale for its proposal that property owners affected by HS2 should have access to measures that go beyond those contained within the statutory Compensation Code.
- 4.1.2 HS2 requires a lengthy planning and construction time. The linear nature and overall length of the development is also unusual, as is the largely rural setting for both Phase One and Phase 2a. As a result, there has been a high level of public concern over the availability and fairness of the means of redress for reductions in property value.
- 4.1.3 Following consultations, the Government concluded that the compensation and assistance package for Phase One of HS2 should indeed go beyond that which is required by law. It is this Government's opinion that the same rationale is applicable to Phase 2a of the project.
- 4.1.4 The rest of this section provides an overview of statutory compensation, with links to more detailed guidance if needed. In section 5, we explain our thinking on what further discretionary measures should be applied for Phase 2a of HS2.

4.2 The Compensation Code and statutory compensation

- 4.2.1 The Compensation Code is a collective term for the principles deriving from Acts of Parliament and case law, relating to compensation for compulsory acquisition. The measures available have developed over the years through a mixture of statute, case law and established practice. These measures offer a sound basis for compensation for those individuals affected by infrastructure projects and have been successfully and widely employed for many years. Where land is compulsorily acquired, compensation is based on the principle of equivalence, meaning that a person should be no worse off in financial terms after the acquisition than they were before. They should also be no better off.
- 4.2.2 Part of the Compensation Code is the statutory blight regime. The Secretary of State has decided, following the consideration of the High Speed Two - Phase Two (Fradley to Crewe) Safeguarding Consultation (2015)³ to issue safeguarding directions. As well as helping to protect the land needed to construct and operate an infrastructure project such as HS2, safeguarding directions also trigger statutory blight.
- 4.2.3 It is not the purpose of this consultation to invite views or comments on the Compensation Code or the statutory blight regime. It is the Government's proposal to apply the Compensation Code wherever this is applicable as this provides a tried and tested system to provide fair compensation to those affected and balances against this the interests of the taxpayer. The Department for Communities and Local

² <https://www.gov.uk/government/consultations/high-speed-rail-investing-in-britains-future-consultation> and <https://www.gov.uk/government/publications/hs2-property-compensation-consultation-2013-for-the-london-to-west-midlands-route-decision-document>.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370018/HS2_Phase_Two_Fradley_-_Crewe_safeguarding_consultation.pdf.

Government (DCLG) provides a summary of key statutory compensation terms in the booklet *Compulsory Purchase: Compensation to Residential Owners and Occupiers* (2011)⁴.

4.3 Statutory compensation terms

4.3.1 Statutory compensation is available for owner-occupiers of residential properties, small businesses⁵ and agricultural units. The type of payments available in response to safeguarding are typically as follows:

- In return for giving up your home you are entitled to its independently assessed, open market value (as if unaffected by the HS2 scheme) plus a home-loss payment (10 per cent of the value up to a current maximum of £53,000), plus your reasonable moving costs (such as expenses for removing possessions, surveyor's and legal fees and stamp duty on a new property). In addition, if you are an owner-occupier, you may ask the Government to buy your property early if you wish by serving a blight notice (under these same terms);
- In the event that part only of your land lies within the safeguarding zone, you will receive the open market value (as if unaffected by the HS2 scheme) for that part plus any loss in value to the part that you retain. If you lose a significant part of your land (such as part of the garden of a typical residential property), you may ask the Government to buy the whole of the property from you if you wish;
- If you are a tenant and your home needs to be acquired compulsorily to make way for the line you may be entitled, under certain circumstances, to a £5,300 flat rate home-loss payment as well as reasonable moving costs. Councils also have an obligation to re-house council tenants whose homes are compulsorily purchased;
- Qualifying business tenants and commercial property owners who occupy their own premises are entitled to an occupier's loss payment and disturbance costs (which can include business losses).

4.4 Part 1 compensation

4.4.1 Once the railway has been open to passengers for one year (as it is only at this stage that the actual impact can be assessed), the Compensation Code allows property owners to claim for loss of value on their property resulting from the noise, vibration or artificial lighting caused by the operation of any new high speed line. These are known as 'Part 1 payments' (after Part 1 of the 1973 Land Compensation Act). Further information is provided in the DCLG booklet *Compulsory Purchase: Compensation to Residential Owners and Occupiers* (2011).

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7719/147648.pdf

⁵ Currently those with an Annual Rateable Value not exceeding £34,800.

4.5 Generalised blight

- 4.5.1 We recognise that the proposal to construct and operate HS2 has an effect on local property markets beyond the areas where statutory compensation is available. This is referred to as generalised blight.
- 4.5.2 Property professionals recognise that the effect of generalised blight is greatest during the planning, design and construction phases of a project. Once a project has been constructed and is in operation, the local property market tends to return to normal as the actual impacts are less than first feared. It is normal for the perception of blight to contribute to the overall effect of a project on property prices, usually as a result of uncertainty. Once that uncertainty has been replaced by certainty, adverse impacts on property prices tend to dissipate.
- 4.5.3 The main objective of our package of discretionary measures is to address that temporary problem of generalised blight.

4.6 The draft Code of Construction Practice

- 4.6.1 HS2 has been designed, and will continue to be developed with the objective of reducing the adverse effects of construction and operation of the railway as far as reasonably practicable.
- 4.6.2 As with Phase One, HS2 Limited will introduce a draft Code of Construction Practice (CoCP) for Phase 2a as part of the Environmental Statement to be published when the hybrid bill is deposited.
- 4.6.3 The CoCP will include measures and standards to protect the living conditions of those who live along the route, and to limit the impact of the project on communities and the environment during construction works. This document will set out the anticipated controls on, and management of, construction activities associated with Phase 2a of HS2. The CoCP should help to limit general anxiety surrounding this element of the project and so mitigate the effect of generalised blight.
- 4.6.4 Nevertheless, we recognise that generalised blight will remain. Our package of property measures is recognition of this fact and our commitment to providing assistance to those directly affected.

5 Discretionary compensation and assistance: what we propose for Phase 2a: West Midlands to Crewe

5.1 The development of the Phase One schemes

5.1.1 For the HS2 Property Compensation Consultation 2013, the Government proposed and subsequently adopted a number of criteria to evaluate the options for long-term discretionary compensation and assistance measures for Phase One. The criteria are:

- Fairness – the Government should ensure that owner-occupiers whose properties (and property values) are most directly and specifically affected by the proposals for HS2 are eligible for compensation; and that those eligible for compensation receive fair and reasonable settlements reflecting the location and circumstances of their property.
- Value for money – the Government should ensure that HS2 property schemes are likely to offer satisfactory value for money to the taxpayer, are affordable, do not involve disproportionate expense and that any risks relating to the costs of property schemes can be effectively managed within HS2’s long-term funding settlement.
- Community cohesion – the Government should maintain as far as practicable the stability and cohesion of communities along the route, for example by enabling existing residents to remain in their homes where possible; by minimising the potential adverse effects of significant population turnover associated with multiple short-term tenancies; by ensuring that there is the best understanding about the likely effect of the railway on the enjoyment of properties; and by compensating those most affected by the project on a fair and reasonable basis.
- Feasibility, efficiency and comprehensibility – the Government should devise clear and easily explained rules so that homeowners can readily understand their entitlements and the Government can predict how costs will be determined in any individual case. It is important also to have assurance that any scheme can be administered efficiently and effectively to provide good customer service for those whose property is affected by the railway.
- Functioning of housing market – the Government should enable local residential property markets to function as normally as possible during the development and construction phases of the project.

5.1.2 The package of measures available for Phase One is the result of careful and conscientious appraisal of the issues that construction and operation of HS2 poses, and responses to the High Speed Rail: Investing in Britain’s Future (2011) consultation, the HS2 Property compensation consultation 2013 for the London to West Midlands

route (2013) and the HS2 Property Consultation 2014⁶. We believe that the package in combination performs well against all criteria.

- 5.1.3 As noted earlier in this document, the main objective of the package is to address the impacts of generalised blight. The homeowner payment scheme, however, seeks to provide those living near to the line in rural areas with an early share in the economic benefits of HS2. This is explained further on page 15.

5.2 Proposed schemes

Express purchase

- 5.2.1 Express purchase is an offer under which the government relaxes some of the rules that normally apply to statutory blight in the safeguarded area, making it easier for owner-occupiers to sell their property to the government.
- 5.2.2 The scheme removes the need for an applicant to demonstrate that they have attempted to sell their property (referred to as 'reasonable endeavours to sell'). It enables blight notices to be accepted without regard to whether the property is needed for the railway, provided that a minimum percentage of the property or any part of the dwelling is within the safeguarded area. This is explained fully in Annex A: Express purchase.
- 5.2.3 Under express purchase, the government will purchase a property under the statutory blight terms. These include:
- purchase of the property at its open market value as if HS2 was not going to be being built (known as 'unblighted' value);
 - a home-loss payment equal to 10 per cent of the property's open market value (up to £53,000); and
 - payment of reasonable expenses, e.g. stamp duty on a replacement property of the same value, reasonable surveyors' and legal fees, and removal costs.
- 5.2.4 **Express purchase has been launched alongside this consultation as an interim measure.** The safeguarding that accompanied the route decision and the launch of this consultation has triggered the statutory blight regime. The Government is keen to ensure that the people most directly affected by the scheme are able to access the compensation that this brings with minimal delay and hindrance. Express purchase still forms part of this consultation, and the outcome will determine whether it continues to be operated longer term. Therefore, we invite comments on express purchase in the same way as the other proposed schemes.
- 5.2.5 Further information on express purchase is provided in Annex A: Express purchase.
- ### Extended homeowner protection zone
- 5.2.6 We have always stated that the purpose of safeguarding is to protect the line of route from conflicting development. Experience from Phase One demonstrates that whilst protecting early is important, it does not confirm that an area will ultimately be

⁶ <https://www.gov.uk/government/consultations/hs2-property-consultation-2014>

required or remain within safeguarding. As the design of the scheme increases in detail, it is likely that some additional land will be safeguarded and that some land previously safeguarded will no longer need to be acquired.

- 5.2.7 Those owner-occupiers whose property falls wholly or partly within the surface safeguarded area announced in the current and any subsequent safeguarding directions are eligible for express purchase. Where a property is later removed from safeguarding we propose that, as with Phase One, an owner-occupier would continue to be able to apply for purchase under express purchase for a period of five years from the date the property ceases to be affected by the directions.
- 5.2.8 The objective of this is to ensure that individuals affected in this way have ample time to consider their options, and adjust or carry out any long term plans they may have made based on an expectation of compensation.
- 5.2.9 This measure would not apply where we change safeguarding because we decide to change the route or to put it into a deep tunnel.

Rent back

- 5.2.10 This is a way of providing those that have sold their property to the government under an HS2 property scheme the option to remain in their home. It will enable those wishing to remain in their community in the short term the option to do so and help those seeking to buy a property elsewhere to be well placed to do so quickly.
- 5.2.11 Rent back can be considered for all homes that the government agrees to purchase, under any property scheme. Decisions on whether a rent back agreement can be made will depend on a value for money test, and a satisfactory credit referencing check.
- 5.2.12 Further information is provided in Annex B: Rent back.

Rural support zone (RSZ) – voluntary purchase and cash offer

- 5.2.13 This would be created outside the safeguarded area and up to 120 metres from the centre line of the railway in rural areas where the railway will not operate in deep tunnel.
- 5.2.14 We propose that the Phase 2a route should be deemed 'rural' from the connection with Phase One at Fradley to where it passes under the A500 south of Crewe. A rural support zone would therefore apply between those points, except where the line runs in deep tunnel.
- 5.2.15 The proposal to introduce further measures for rural areas is based on two principal considerations. First, that the urban area adjacent to the railway north of the A500 can reasonably be expected to benefit more directly from HS2 once it is built as it would be close to HS2 services. Second, the short-term effects on communities caused by planning and construction of HS2 can reasonably be expected to be much more marked in rural areas. The negative effects on the property market are more widespread in rural areas where, due to the lack of existing transport infrastructure and low building densities, impacts are likely to be felt further away than would be the case in urban areas.

5.2.16 Within the RSZ, eligible owner-occupiers would have the option of two schemes:

- A voluntary purchase scheme – Under which owner-occupiers can ask the government to purchase their property for its full un-blighted open market value, or;
- The cash offer – The option of a lump-sum payment equal to 10 per cent of the un-blighted open market value of their property (from a minimum of £30,000 to a maximum of £100,000) as an alternative to the voluntary purchase scheme.

5.2.17 Further information is provided in Annex C: Voluntary purchase and cash offer.

Need to sell

5.2.18 This scheme would be available to owner-occupiers who can demonstrate that they have a compelling reason to sell their property, but have been unable to do so – other than at a substantially reduced price – as a direct result of the announcement of the route of HS2.

5.2.19 The scheme would have no geographic boundary, and for successful applicants, the Government would agree to buy properties for their full un-blighted market value.

5.2.20 Further information is provided in Annex D: Need to sell.

Homeowner payments

5.2.21 These would be implemented only once the Phase 2a hybrid bill becomes law. The Government recognises that while HS2 is a railway for the whole nation, it affects communities at a local level. Although we expect that the UK as a whole will receive an economic boost from the proceeds of growth from HS2, we acknowledge that the overall economic benefit from the railway may not be distributed equally. The most concentrated economic benefits are likely to be in the areas around and near stations - largely urban areas.

5.2.22 The aim therefore of the homeowner payment is to ensure that owner-occupiers of properties adjacent to the RSZ and up to 300 metres from the line of route receive an early share in the benefits of HS2. This would be a payment of up to £22,500.

5.2.23 As noted above, we propose that the majority of the West Midlands to Crewe route (from the junction at Fradley to the A500 south of Crewe) should be deemed rural for the purpose of property measures. Homeowner payment zones would therefore apply to the line of route between those points.

5.2.24 Further information is provided in Annex E: Homeowner payment.

5.3 Atypical properties and special circumstances

5.3.1 The Government recognises that properties vary widely, as do the circumstances of owner-occupiers. Accordingly, the Government has purposely designed its proposed discretionary schemes to be broad, inclusive and flexible.

5.3.2 This said, we appreciate that it may be desirable to supplement our compensation and assistance proposals further for owner-occupiers living in atypical properties or special

circumstances. By 'atypical properties', we mean properties to which the strict application of our rules would unfairly disadvantage the owner. Similarly, some individuals may be subject to unusual circumstances which mean that additional assistance or support is needed.

- 5.3.3 We would expect in most instances that flexibility could be provided within the structures of the discretionary schemes proposed here. Where that is not possible, HS2 Limited will work directly with owners of atypical properties or those who are experiencing special circumstances in order to consider how their needs can best be met while protecting the interests of the taxpayer.

5.4 Tunnels

- 5.4.1 HS2 Limited has published an assessment of the United Kingdom's history of building tunnels beneath properties - *Impacts of Tunnels in the UK* (2013)⁷ - which described recent case histories of building rail tunnels. It reported on the impacts that these have had on people and properties, and describes possible measures that can be taken to avoid perceptible noise and vibration.
- 5.4.2 This concluded that the use of modern track construction methods and monitoring regimes are able to address the problem of noise and vibration that has arisen from the operation of older tunnels.
- 5.4.3 In the *HS2 Property and Compensation for London – West Midlands Decision Document – Properties above Tunnels* (2013)⁸ the Government concluded that it is not appropriate for those living above or adjacent to deep tunnels to be eligible for the full range of compensation and assistance schemes for Phase One. However, it accepted that owner-occupiers of properties above deep tunnels should have the opportunity to make a case under the need to sell scheme.
- 5.4.4 Any property owner, whether near to a deep tunnel or a surface section of the line, would be able to apply to the need to sell scheme. As on Phase One, there would be no geographic application boundary. However, when considering a need to sell application against the 'location' criterion, the independent panel would only consider surface construction and eventual infrastructure. This constitutes surface or cut-and-cover/green tunnelled sections of the route, as well as vent shafts and tunnel entrances (or any surface infrastructure). It will not consider deep tunnels near the property.
- 5.4.5 The *HS2 Property and Compensation for London – West Midlands Decision Document – Properties above Tunnels* detailed the following measures, **which we also propose to offer to those above deep tunnels on the Phase 2a route**. Each is designed to mitigate against the potential impacts of the railway where in tunnels and to ensure that there is redress should any owner-occupier be adversely affected:
- 'Before' and 'after' surveys - Though we believe that the impacts from HS2 tunnelling and other underground excavations will be minimal, we have

⁷ <http://assets.hs2.org.uk/sites/default/files/inserts/Impacts%20of%20tunnels%20in%20the%20UK.pdf>

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264080/8756.pdf

nevertheless committed to undertaking (and paying for) surveys of those properties above tunnels that are considered to be at the greatest risk of settlement. Such surveys would be carried out before and if necessary after construction.

- Settlement deeds - This will be a formal legal undertaking which, in the very unlikely event of ground settlement resulting from the HS2 project causing material physical damage to property, will require HS2 Limited to undertake or reimburse property owners for the reasonable cost they incur in remedying such damage. A draft of the proposed Phase One deed is in the information paper mentioned below.
- Purchase of subsoil rights - Under English law, freehold ownership of land includes the ground below the surface to an unlimited depth. Therefore, in order to build the deep tunnels and other underground structures required for HS2, the Government must acquire the land beneath the surface through which they will pass. We will make a nominal payment of £50 to represent the perceived value of the subsoil. Additionally we will pay £250, where applicable, as a contribution toward professional fees associated with the purchase.

5.4.6 Further information on the policies and the assessment regime that will deliver these is available in the *High Speed Two Information Paper C3: Ground Settlement (2015)*⁹.

5.5 Comparing the positions of Phase One and Phase 2a (West Midlands to Crewe) section of Phase Two

5.5.1 We have said previously that the Phase One schemes would be the starting point for our approach to discretionary measures for Phase Two. We have therefore considered those schemes and whether the impacts on property owners on this route section are different than they are on Phase One.

5.5.2 As with Phase One, the Phase 2a section of HS2 is predominantly rural. The pattern of rural settlement through this part of Staffordshire and South Cheshire does not appear to us to be fundamentally different in character from the northern part of the Phase One route. We believe that the considerations that led us to propose a rural support zone for Phase One – in brief, the greater likelihood of community impact and negative effects on the property market where there are lower building, and transport, densities – will apply equally here.

5.5.3 Regardless of the rural similarities between this section of route and much of Phase One, the discretionary property package has in any case been designed to be flexible. As we explained in section 5.3 of this document, we recognise that we will sometimes need to supplement our published schemes to avoid unfairly disadvantaging people. Such cases may well arise on this route section and if so, they will be addressed individually. We are not aware of any such needs for additional, or differently provided, assistance on a collective, route section-wide basis.

⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435963/C3_-_Ground_Settlement_v1.3.pdf

- 5.5.4 By extension, we do not believe that there is an obvious case or rationale for a different way of addressing generalised blight in this specific area from the way it is being addressed on Phase One. We would welcome views on this principle, and any potential evidence to the contrary.
- 5.5.5 In consultation feedback for Phase One, there were a significant number of calls for a property bond. We continue to believe that this is not the right solution for property assistance for HS2. This option was carefully considered as an option for the discretionary schemes for Phase One but the Government concluded that the package of measures now available are clearly preferable, not least in light of the fact that a property bond was untested. There are significant uncertainties as to the effectiveness of a property bond scheme and the potential liability for the public purse. Nothing has happened since to make this Government reach a different conclusion. On that basis, we are not proposing a property bond as an alternative assistance mechanism for the Phase 2a section of HS2.
- 5.5.6 Further information on the Government's reasons for rejecting a property bond for Phase One are set out in the *HS2 Property Compensation Consultation 2013 Decision Document* (2013) and accompanying documents.
- 5.5.7 The Government believes that the Phase One package remains the correct approach for this first section of Phase Two.

5.6 Experience of operating the Phase One schemes to date

- 5.6.1 The Phase One schemes have all been in place since January 2015. This is too short a length of time (around 10 months) to draw any firm conclusions from the application data but we suggest there are tentative trends.
- 5.6.2 As of October 2015, there have been 42 accepted applications to RSZ schemes. 22 of these applications have progressed to the stage where an offer has been accepted, 14 have chosen voluntary purchase and 8 the cash offer. The remaining 20 accepted applications have not yet chosen which scheme to take or are pending an offer. Whilst we cannot speculate on individual motives, we hope that the fact that only 14 of the estimated 290 dwellings have expressed a desire to have their home acquired by the Government indicates that those within the Phase One RSZ are broadly comfortable taking their time considering which approach is best for them to take, rather than feeling pressured to do so quickly. The eight requests for payment of the cash offer may indicate that this is viewed as a realistic alternative to moving away from their communities.
- 5.6.3 Since January 2015, 116 applications have been made to the need to sell scheme; this includes a number carried forward to the NTS from the earlier Phase One Exceptional Hardship Scheme (EHS). Currently, 29 applications are being assessed; in a number of these cases, the applicant has not progressed their application for over six months. Where a decision has been made, 61 per cent of the applications to the NTS scheme have been accepted.

5.7 Summary - the Government's proposal

- 5.7.1 It is the Government's view that the schemes available for Phase One of HS2 are the best options for the Phase 2a section of HS2. The package proposed provides real choices for those alongside the railway. It provides reassurance to those that may wish or need to leave their property but just as importantly, it offers assistance to those that elect to remain in their communities.
- 5.7.2 The impacts of the railway on individual property owners will differ on many accounts (such as distance from the line, proximity to construction, or local topography) but such differences reflect individual circumstances rather than the particular characteristics of the Phase One or Phase 2a route. The Government does not believe that there is anything in the characteristics of this section of HS2, or the area it passes through, that makes the Phase One package unsuitable or makes another approach necessary or preferable.
- 5.7.3 We therefore propose that from the connection with Phase One near Fradley until the proposed railway crosses the A500 south of Crewe, owner-occupiers will be eligible to apply for the package of measures available to rural areas of Phase One. Where the line runs on the surface, these measures would be:
- Express purchase;
 - Extended homeowner protection zone;
 - Rent back;
 - Need to sell;
 - A rural support zone, offering the choice of voluntary purchase or cash offer; and
 - Homeowner payments.
- 5.7.4 Above deep tunnels, the following measures would apply:
- 'Before' and 'after' surveys
 - Settlement deeds
 - Purchase of subsoil rights
 - Need to sell – though only the property's proximity to surface infrastructure / construction would be considered. Further information is provided in sections 5.4.3 and 5.4.4.
- 5.7.5 From the point where the railway crosses the A500 and heads north into Crewe, we consider the route to be urban in nature and the following schemes would be available:
- Express purchase
 - Extended homeowner protection zone
 - Rent back

- Need to sell

5.7.6

We believe that this package provides the best balance between protecting owner-occupiers along the route of the railway and mitigating the value for money risks inherent with any compensation and assistance scheme.

6 Consultation questions

Question 1

We believe that the compensation and assistance schemes that are available for Phase One of HS2 are also suitable for those living along the Phase 2a (West Midlands to Crewe) section of HS2. Are there any circumstances which you think should be considered to make the proposed schemes more suitable for the Phase 2a section of HS2?

Please provide as much detail as possible.

Question 2

What are your views on the proposed boundary of the rural support zone (RSZ) at the south side of the A500?

Please provide any alternative proposals and as much detail as possible.

7 Next steps

- 7.1.1 **The consultation closes on 25 February 2016.** Please ensure that you send your response before that date so that it is included in our analysis and consideration. Emails and online responses need to be submitted by 11.45pm on the final day of the consultation. Paper responses must be posted no later than the final day of the consultation. Information on where to respond can be found below.
- 7.1.2 If you would like further copies of this consultation document, it is available to download at www.gov.uk/hs2. If you require the document in a different format, please contact the HS2 Helpdesk on 020 7944 4908.

8 Who can respond to this consultation?

- 8.1.1 As with all HS2 consultations, the HS2 Property Consultation 2015 is open to the public at large and we welcome comments from all interested individuals or organisations. We have targeted the publicity and the public events at those living close to the route of the Phase 2a section of HS2.

9 How to respond

- 9.1.1 Please only respond using one of the following channels, which have been set up for the specific purpose of this consultation:
- Online: by following the link at:
www.HS2PropertyConsultation2015.dialoguebydesign.net
 - Email: you can email your response to:
hs2propertyconsultation2015@dialoguebydesign.co.uk
 - Post: you can post your response to the following FREEPOST address (Please note: no additional address information is required and you do not need a stamp):

FREEPOST HS2 PROPERTY CONSULTATION 2015

- 9.1.2 HS2 Limited and the Department for Transport cannot accept responsibility for ensuring responses sent to addresses other than those described above are included in the consultation process.
- 9.1.3 All responses must include at least your name and organisation (if applicable). When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear whom the organisation represents.

10 Confidentiality and data protection

- 10.1.1 If you do not want any of your response to be published, you should clearly mark it as 'Confidential'. However, information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes. These are, primarily, the Freedom

of Information Act 2000 (FOIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004.

11 Glossary

Blight notice

A blight notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.

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A blight notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.

Cut-and-cover tunnel

Excavating a cutting, constructing a box-type structure and reinstating the ground over the top to its original level and surface features. The mined tunnelling method can be used where self-supporting subsurface material (e.g. rock/hard clay) is present. It involves the use of drill and blast techniques or excavation/sprayed concrete lining to advance the excavation.

Deep tunnel

These are constructed using a tunnel boring machine (TBM) or are mined. A modern TBM typically consists of the rotating cutting wheel, called a cutter head, followed by a main bearing, a thrust system and trailing support mechanisms. TBMs have the advantages of limiting the disturbance to the surrounding ground and producing a smooth tunnel wall. This significantly reduces the cost of lining longer tunnels, and makes them suitable to use in heavily urbanised areas.

Exceptional Hardship Scheme

The existing interim measure introduced to assist homeowners who have an urgent need to sell, but because of HS2, cannot do so or can do so only at a substantially reduced price.

False cutting

An embankment of raised earthworks on one or both sides of the railway to provide visual and noise screening.

Generalised blight

Planning proposals, such as HS2, may have an adverse effect on property market so that an owner-occupier is unable to realise the market value that would have been obtainable had HS2 not been proposed. This is despite the fact that the owner's land has not been directly affected by the proposals, but because prospective purchasers, having learned of the planning proposals, either will not proceed with the purchase or will only offer a lower price

Green / cut-and-cover tunnel

A cut-and-cover tunnel is a simple method of construction for shallow tunnels where a trench is excavated and roofed over with an overhead support system strong enough to carry the load of what is to be built above the tunnel. A green tunnel is a cut-and cover tunnel over which soil is spread to integrate into the landscape, thus minimising visual impacts and making the presence of a railway less noticeable. Access tracks and vegetation can be placed on the surface above the tunnel and it can be used for amenity, parkland and agricultural uses, etc.

Home-loss payment

If you are required to vacate your home for the construction of HS2, you may be entitled to receive a 'home-loss payment'. If you also own your home (either freehold or with a lease with more than three years still to run), you will be entitled to a sum equal to 10 per cent of its value, subject to a current minimum payment of £5,300 and a current maximum of £53,000. This applies to all eligible properties subject to compulsory purchase. If the interest is other than an owner's interest, then the payment is a specified statutory amount (currently £5,300).

Hybrid bill

Public bills change the law as it applies to the general public and are the most common type of bill introduced in Parliament. Private bills change the law only as it applies to specific individuals or organisations, rather than the general public. Groups or individuals potentially affected by these changes can petition Parliament against the proposed bill and present their objections to committees of MPs and Lords. A bill with characteristics of both a public bill and a private bill is called a hybrid bill and is generally used for large infrastructure projects.

Owner-occupier

An owner-occupier is anyone who owns a property (either outright or with a mortgage) as a freehold or on a fixed term of years lease (with at least three years unexpired) and has it as their principal residence or place of business. This is as laid out in the Town and Country Planning Act 1990.

Part 1 compensation

Compensation which may be claimed by the owner-occupiers of dwellings, small business premises and agricultural units under Part 1 of the 1973 Land Compensation Act for any reduction in the value of their property as a result of the physical effects of the operation of the railway. This can be claimed only after the scheme has been open for one year.

Safeguarding

Safeguarding is a planning tool which aims to ensure that new developments which may conflict with planned infrastructure schemes do not affect the ability to build or operate the scheme or lead to excessive additional costs.

Safeguarding directions

These are the mechanism by which the Secretary of State can protect the proposed alignment of a road or railway from conflicting development. The Secretary of State issues a safeguarding direction under Articles 16(4), 25(1) and 29(6) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

Safeguarding directions are issued to Local Planning Authorities (LPAs) by the Secretary of State. Those LPAs are then required to consult with a body named in the directions (for example HS2 Limited) before determining planning applications for land within the limits shown on the safeguarding plans attached to the directions, except where that type of applications is exempted. These directions also trigger statutory blight and allow owners within the safeguarded area to serve a blight notice.

Stamp duty

Stamp Duty Land Tax (SDLT), more commonly known as 'stamp duty', is generally payable on the purchase or transfer of property or land in the UK where the amount paid is above a certain threshold. Broadly speaking, SDLT is charged as a percentage of the amount paid for property or land when it is bought or transferred.

Un-blighted open market value

This is the value that a property would have on the open market if the cause of blight were removed – in this case if there were no plans for HS2.

Annex A: Express purchase

In order to qualify for express purchase, you would need to be able to answer 'yes' to both of the following questions

- Do you have a qualifying interest in the property that you wish the Secretary of State for Transport to buy?
- Is your property partly or wholly within the safeguarded area?

Eligibility

The definition of a 'qualifying interest' includes:

- owner-occupiers (to include freeholders and leaseholders with at least three years remaining on the lease) of private residential properties that are (or were following a review of the safeguarding directions) situated wholly or partly within the safeguarded area;
- owner-occupiers of business premises with an annual rateable value not exceeding £34,800 which are or were situated wholly or partly within the safeguarded area;
- owner-occupiers of agricultural units which are or were situated wholly or partly within the safeguarded area;
- mortgagees (e.g. banks and building societies) which, at the time of sale:
 - have the right to exercise their powers of sale in relation to a property that is or was situated wholly or partly within the safeguarded area; and
 - can give immediate vacant possession.
- personal representatives of a deceased person who had one of the above qualifying interests in a property within the safeguarded area at the time of death

In addition to having a qualifying interest, there would be residency requirements as follows.

Residential owner-occupiers:

- must be living in the property at the date on which the blight notice is served and must have owned it and lived in it as their main residence for at least six months before that date; or
- if the property is empty, the applicant must have lived there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

Owner-occupiers of business premises:

- must have owned it for at least six months before that date and have operated a business from there throughout this time; or
- if the property is empty, the applicant must have operated a business from

there for at least six months prior to it being empty, so long as it has not been empty for more than 12 months.

An agricultural unit:

- must have occupied it for at least six months before that date; or
- if the agricultural unit is not occupied, the applicant must have occupied it for at least six months prior to it being empty, so long as it has not been unoccupied for more than 12 months.

Representatives of a deceased person:

- the deceased person must have been resident in, or operating a business from, the property for at least six months prior to the date of death, ending not more than 12 months before the date of death.

Location

To be considered under express purchase your property must be (or must have been) wholly or partly within the safeguarded area and you had a qualifying interest. You can check whether your property is in the Phase 2a (West Midlands to Crewe) safeguarded area by consulting the maps for your area, which can be found in the 'Property' section at www.gov.uk/hs2. A blight notice must be served in respect of the whole of your property, regardless of whether it is wholly or partly in the safeguarded area.

For eligible property owners whose properties would only be partly within the safeguarded area or any future extended homeowner protection zone, each blight notice would be considered on a case-by-case basis. An initial assessment would be made as to whether any part of the property is required for the construction or operation of the railway. This would determine which of two further analyses would take place. It should be noted that the tests for whether it is appropriate to take part of the property are different for commercial and agricultural properties.

1. If no part of the property is required, this does not necessarily mean that express purchase cannot take place. Rather, we will assess whether or not any part of the dwelling (generally the house) is within the safeguarded area. If this is the case, express purchase will apply. If no part of the dwelling is within the safeguarded area, a final assessment will be made as to the total percentage of the hereditament (generally the house and garden) which is within the safeguarded area. Should more than 25 per cent of the hereditament be within the safeguarded area, express purchase will apply.
2. If any part of the property is required for the railway a three-stage assessment will be applied.
 - a. Firstly, as with point one, an assessment will be made as to whether or not any part of the dwelling is within the safeguarded area and should any part of the dwelling be within the safeguarded area (even if that portion of the safeguarded property is not needed for the railway), express purchase will apply.

- b. If no part of the dwelling is within the safeguarded area but more than 25 per cent of the hereditament is within the safeguarded area, express purchase will also apply.
- c. If 25 per cent or less of the hereditament is within the safeguarded area, the application will be assessed using the principles of statutory blight. Under these principles an assessment would be undertaken in each case to identify whether the part proposed to be acquired can be taken without material detriment to the retained property. Further information regarding material detriment can be found at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7719/147648.pdf

Extended homeowner protection

Owner-occupiers whose property falls wholly or partly within the surface safeguarded area in the current or subsequent safeguarding directions, but are subsequently removed from the safeguarded area following design refinements, would continue to be eligible for express purchase for a period of time. These properties would form part of an extended homeowner protection zone. Owner-occupiers of such properties would remain eligible to submit a blight notice for five years from the date the property was removed from the safeguarded area.

The extended homeowner protection zone would not be applied if we change safeguarding because we have decided to change the route or to put it into a deep tunnel.

Annex B: Rent back

If the government agreed to purchase a property through one of the proposed Phase 2a property schemes, the seller could ask HS2 Limited to rent it back to them if they would like to continue living there. Rent back is designed to provide flexibility and reassurance, and to benefit both individual homeowners and the wider community.

Applications

When arranging to sell a property, the seller could ask their HS2 acquisition manager to explain the options for renting it back. If the seller informs the acquisition manager that they would like to be considered for rent back, the property would then be assessed to determine:

- the cost of any repairs, improvements or testing of service installations – in accordance with legal requirements and in line with sound commercial principles; and
- its open market rental value, with these changes made.

There would be no commitment at this stage, the seller is entirely free to change their decision to reflect their circumstances and whether they are happy with the tenancy agreement they are offered.

Properties' eligibility for sale and rent back

All homes that the government agrees to purchase can be considered for sale and rent back, provided that:

- the costs outlined above, once assessed, make maintaining the property a reasonable use of taxpayers' money; and
- the government follows its own regulations on rented properties being safe and suitable for tenants. The standard for renting a property is higher than that for an owner-occupier.

Some properties, such as Listed Buildings, may be less suited to rental. However, by following normal commercial principles, and applying its value-for-money test consistently, the government aims to make all decisions fairly. Any agreement on renting back would be subject to credit and identity checks, as is standard practice.

Rental rate

If the property were suitable for letting, the government would work out the rent, based on the rent charged for other, similar properties on the open market. Just like any other landlord, the government would ask you for a deposit and ask you to provide references.

Tenancy agreement

Lettings granted under rent back would be at an open market rent for an initial term of six months. We will use Crown rather than assured shorthold tenancies (ASTs) as this will permit the government to gain possession should the property be required or disposed of at a later date.

As with any tenancy, the landlord would have a number of responsibilities, such as keeping the structure in good repair; keeping heating, water, gas and electricity installations in proper order; getting built-in installations tested; and providing smoke alarms. The tenant would be subject to standard lease covenants, such as being responsible for internal repairs and decorations.

Annex C: Voluntary purchase and cash offer

Voluntary purchase scheme (VPS) and cash offer (CO) would be available to eligible owner-occupiers within the rural support zone (RSZ). The RSZ is the area that starts at the outer border of safeguarding and stops 120 metres from the centre line of the railway in rural areas where it is not in deep tunnel.

- Under the VPS the government would buy the property for 100 per cent of the un-blighted open market value. This discretionary property scheme would allow eligible owner-occupiers of properties within the RSZ to ask the government to purchase their property. The government would pay 100 per cent of the un-blighted open market value of the property as assessed by two independent valuers.
- The CO is a lump sum payment of 10 per cent of the un-blighted open market value of a property, which will be assessed by two independent valuers. It would give owner-occupiers an alternative to selling their home to the government, enabling them to stay within their community. There would be a minimum payment of £30,000 and a maximum of £100,000.

Eligible owner-occupiers would be able to apply until one year after the railway is first open for public use. This means that they would have many years to consider the options available and choose what is best for them and their family. It also means they can begin the application process at a time appropriate to their needs.

Under both schemes, two independent valuers will assess its un-blighted open market value. In other words, this is the value of the property in current market conditions with an assumption that no plans for HS2 existed.

Acceptance under the CO would prevent application for the VPS at a later date. However, applications for the need to sell (NTS) scheme would still be considered, although please note that we would recoup the CO payment, plus statutory interest, from the NTS purchase price.

Eligibility

To be eligible for property schemes in the RSZ, owner-occupiers would need to be able to demonstrate:

- a qualifying interest in the property;
- that the property is wholly or partly in the RSZ (if partly in the RSZ, either any part of the dwelling or 25 per cent of the whole area of the land must be in the zone); and
- they were not aware of the proposed HS2 route when purchasing the property.

To be eligible for either of the RSZ schemes, we would need to see evidence that you have a qualifying interest in the property. The definition of a 'qualifying interest' is contained in Part 6, Chapter II of the Town and Country Planning Act 1990. It includes:

- resident owner-occupiers of private residential properties;
- owner-occupiers of business premises with an annual rateable value not exceeding £34,800 (please refer to your local authority's business rate banding for further details of rateable values); and
- owner-occupiers of agricultural units.

Owner-occupiers would need to have an 'owner's interest' on the date of application. This is either a freehold or leasehold interest in the property. If it is a leasehold interest, the tenancy must be signed for a certain term of years, not less than three years of which remain unexpired on the date of the application.

For the purpose of the RSZ, a 'mortgagee' would have the right to apply for either of the schemes. However, they must have a right to sell the property and be able to give immediate vacant possession.

Ownership of a freehold or leasehold interest is defined by the names on the Land Registry title - or, for 'unregistered land', on the title deeds or conveyance for the property.

For applicants to demonstrate residency, they would also need to show that they meet the following requirements

- Private residency
 - must be living in the property on the date of application and must have owned and lived in it as their main residence for at least six months before.

Or

 - if the property is empty, must have lived there for at least six months prior to it being empty, provided that it has not been empty for more than 12 months and has not been occupied by anyone else since.
- Business premises
 - must have owned the premises for at least six months before the date of application and have operated a business from there throughout this period

Or

 - If the property is empty, the applicant must have operated a business from there for at least six months prior to being empty, so long as it has not been empty for more than 12 months
- Agricultural unit
 - Must have occupied the premises for at least six months before the date of application

Or

 - If the agricultural unit is not occupied, the applicant must have a qualifying interest in it and must have occupied it for at least six months prior to it being empty, so long as it has not

been unoccupied for more than 12 months;

And

- For the purpose of these schemes, we will also require that the main residence of the owner is located on the agricultural unit

Part in properties

Where no part of the dwelling is within the RSZ, we will assess the percentage of the total area of the property (generally the house and garden but also including other land included within the property)

If more than 25 per cent of the property is within the RSZ, they would be eligible to apply to either of the RSZ schemes.

Prior knowledge

Where a property has been purchased at any time after the publication of the Phase Two initial preferred route announcement on 28 January 2013, we may consider that purchase was made with prior knowledge of Phase Two of HS2. In considering this, the amount of information available at the time of purchase and whether this information was such that a reasonable person could have foreseen the potential for generalised blight will be considered.

There may be cases where purchases were completed after 28 January 2013, where the purchasers remained unaware of the proposals for Phase Two of HS2 or were unaware that the property would be in proximity to the route. For example, if the searches relating to the purchase of the property were undertaken before this date but exchange did not happen until after it, then we would consider this when assessing an application.

Likewise, following any subsequent changes to the route at any point in the future, purchasers who bought after 28 January 2013 may find they are now in proximity to the route of the Phase 2a section of HS2 but were not at the time of purchase. In these circumstances, applicants would need to provide satisfactory evidence that they indeed had no prior knowledge.

Annex D: Need to sell

The need to sell (NTS) scheme would replace the Phase Two exceptional hardship scheme (EHS) for the Phase 2a (West Midlands to Crewe) section of Phase Two of HS2. The EHS has been open since July 2013. If you have an application currently open under the EHS, it would automatically be transferred to be considered under NTS. For the remainder of the Phase Two network, the EHS will continue to operate until long-term discretionary schemes are introduced.

This scheme would run until one year after this section of the railway is first open for public use.

The NTS scheme recognises the importance of providing assistance to those who have a compelling reason to sell their property but are unable to do so - other than at a significant loss - due to the Phase 2a section of HS2, or, if they are unable to sell their property, would face an unreasonable burden in the near future.

Eligibility

The NTS scheme would be available to eligible owner-occupiers who can demonstrate that they have a compelling reason to sell their property, but have been unable to do so - other than at a substantially reduced price - as a result of the announcement of the Phase 2a route of HS2. Successful applicants could then have their property purchased by the government at its unblighted market value (i.e. the value of the property as it would have been without any effect arising from the high speed rail proposals).

The Phase 2a NTS would be administered by HS2 Limited on behalf of the government, with a panel of three fully independent professional members considering applications and making a recommendation to the Secretary of State for Transport on whether each case should be accepted. A senior civil servant with delegated authority from the Secretary of State will make the final decision. However, if the panel believes there are extenuating circumstances - that is, if an application has not met the criteria to be accepted but the panel considers it should be accepted - or if the senior civil servant disagrees with the panel's recommendation, then the case would be decided by a Minister.

Assessment criteria

The independent panel will assess applications to NTS using five criteria:

1. Property type

To be eligible for NTS, evidence of a qualifying interest in the property will be required. The definition of a 'qualifying interest' is contained in Part 6, Chapter II of the Town and Country Planning Act 1990. It includes:

- resident owner-occupiers of private residential properties;
- owner-occupiers of business premises with an annual rateable value not exceeding £34,800 (please refer to your local authority's business rate banding for further details of rateable values); and
- owner-occupiers of agricultural units.

Owner-occupiers would also need to have an 'owner's interest' on the date of the application. This would be either a freehold or leasehold interest in the property. If it were a leasehold interest, the tenancy would have to have been signed for a certain term of years, not less than three years of which remain unexpired on the date the application is signed.

For the purpose of the NTS, the following property interests will also be able to apply:

- mortgagees with a right to sell the property and who can give immediate vacant possession;
- personal representatives of a deceased person who had one of the above qualifying interests (listed under 'Property Type') at the time of death; and
- 'reluctant landlords' - individuals who can demonstrate that they had a compelling reason to sell at the time they moved out of the property in order to avoid or escape a situation of unreasonable burden, and that letting the property could provide only temporary relief from this burden, and they do not own another home.

Ownership of a freehold or leasehold interest is defined by the names on the Land Registry title - or, for 'unregistered land', on the title deeds or conveyance for the property.

Property owners would qualify as reluctant landlords if they owned only one property, which they had been forced to let.

To demonstrate that you are an owner-occupier, you would also need to show that you meet the residency requirements. These would be as follows:

- Private residency
 - must be living in the property on the date of application and must have owned and lived in it as their main residence for at least six months before that date.

Or

- if the property is empty, must have lived there for at least six months prior to it being empty, provided that it has not been empty for more than 12 months and has not been occupied by anyone else since.
- Non-residents
 - Must have the right to sell the property and be able to give immediate vacant possession.
 - Representative of a deceased person:
 - a. In such cases, the Land Registry title for the property would not need to be updated with the name(s) of the beneficiary under the will.
 - b. Entitlement would be proven by submitting relevant documentation demonstrating entitlement, such as a death certificate, a will and grant of probate and letters of administration.

- Reluctant landlords would need to show that:
 - a. The property applied for under NTS was the only property that the applicant(s) own(s) and the applicant(s) ceased to reside at the subject property after 28 January 2013 (the date of the publication of the HS2 Phase Two initial preferred route); and the applicant(s) now live in accommodation they do not own.
- Business premises
 - must have owned the premises for at least six months before the date of application and have operated a business from there throughout this period.
 - Or
 - If the property is empty, the applicant must have operated a business from there for at least six months prior to being empty, so long as it has not been empty for more than 12 months.
- Agricultural unit
 - Must have occupied the premises for at least six months before the date of application.
 - Or
 - if the agricultural unit is not occupied, the applicant must have a qualifying interest in it and must have occupied it for at least six months prior to it being empty, so long as it has not been unoccupied for more than 12 months;
 - And
 - For the purpose of these schemes, we will also require that the main residence of the owner is located on the agricultural unit.

2. Location of property

That the property in such close proximity to the Phase 2 route of HS2 that it would be likely to be substantially adversely affected by either the construction or the operation of the new line.

Distance from the route is one factor, but others include:

- the particular characteristics of the property and the nature of its local area, including its position and its surroundings;
- the character of the line once completed (for example, whether it will run in a cutting or on a viaduct);
- the likely impacts of the construction of the line in the area;
- the topography of the area (for example, whether it is a flat flood plain or hilly);and
- the distance to any nearby points of significant change to the character of the line (for example, a cut-and-cover tunnel entrance or a viaduct).

The Panel would consider each application on a case-by-case basis, taking into account the variable characteristics of the proposed line. When considering an application, the Panel will use

relevant available technical materials such as engineering and construction drawing, mapping software and aerial photographs provided by HS2 Limited to consider the impact of the construction or operation on the applicants' property. If they wish to, applicants may also submit their own photographic evidence of the features of their property and the immediate vicinity to support their statements about the effects on their property.

There would be no fixed distance within which a property must be situated in order to satisfy this criterion. The purpose of this criterion is to determine whether a property's location means that it would be likely to be substantially adversely affected by the construction or operation of the route. The location criterion is needed to link the geography of the property to the route and will take into account the variable characteristics of the route. This is not designed to determine generalised blight: that is assessed separately under the 'effort to sell' criterion (explained below).

Under this criterion, the Panel will only consider surface construction and eventual infrastructure, such as surface or cut-and-cover and green tunnelled sections of the route, as well as vent shafts and tunnel entrances (or any surface infrastructure). It will not consider deep tunnels near the property but, to be clear, this does not prevent a property owner above or near a deep tunnel from applying to the scheme.

3. Effort to sell

The purpose of this criterion would be to determine whether it is the blight resulting from the route of Phase 2a of HS2, rather than any other factor, which is the reason why the property has not sold or could not be sold, other than at a substantially reduced value (blighted value).

The panel would normally consider whether:

- HS2 is the reason that the property has not sold or cannot be sold - other than at a substantially reduced (blighted) price - through feedback from viewings or those who have chosen not to view.
- all reasonable efforts to sell your property in the context of the current market have been made.
- offers within 15 per cent of its realistic un-blighted asking price have not been received.
- a reasonable range of marketing proposals from more than one recognised estate agent, including proposals for what a realistic unblighted asking price for your property should be have been sought
- the property has been on the market for at least three months immediately prior to the date of application, with at least one recognised estate agent.

The requirement that all reasonable efforts should have been made to sell a property and that, despite those efforts, no offers have been received within 15 per cent of its realistic un-blighted asking price, helps to demonstrate any effect of HS2

We use the term 'recognised estate agent' to mean an estate agent with experience of marketing properties in the local area, advertising through a variety of media. This can include estate agents who do not have a physical presence in the local area, but who, for example, speak to potential viewers, collect feedback, provide a 'For Sale' board and a floor plan, and take professional photographs.

Other routes to marketing property

Given the variety of options available to sellers today, this criterion recognises that 'self-marketing' might form part of applicants' efforts to sell their property. This would include websites that allow users to upload details of their property themselves, in the form of a listing, to publicise its availability. However, it is unlikely that this sort of self-marketing approach would be able to provide the same level and quality of evidence as using a recognised estate agent.

This criterion requires that information be included within an application regarding estate agents' marketing proposals and feedback from those who viewed - or chose not to view - the property in question. Self-marketing efforts would not be ignored under this criterion, but the requirement for marketing with at least one recognised agent still applies.

Inability to market a property

Evidence provided about applicants' attempts to actively market their property would be carefully considered. In particular, evidence that a number of local estate agents have refused to market the property due to HS2 is considered key information. In this situation, we would not expect a property to be fully marketed. Evidence that agents have refused to market the property should be either letters or emails from estate agents to the applicant.

4. No prior knowledge

Where a property was bought at any time after the publication of the Phase Two initial preferred route on 28 January 2013, we may consider that the purchase had been made with foreknowledge of Phase Two. In considering this criterion, the Panel and decision maker would look at:

- the amount of information available at the time of purchase; and
- whether this information was such that a reasonable person could have foreseen the potential for generalised blight.

There may be cases where purchases were completed after the Phase Two initial preferred route was published (28 January 2013), but the purchasers remained unaware of the proposals for Phase Two or were unaware that the property would be in proximity to the route. For example, if the searches relating to the purchase of the property were undertaken before this date, but the exchange took place after it, the panel would take this into account.

Likewise, following subsequent changes to the route, or at any point in the future, purchasers who bought after 28 January 2013 may find they are now in proximity to the Phase 2a section of HS2, but were not at the time of purchase. In these circumstances, applicants would need to provide satisfactory evidence that they indeed had no prior knowledge.

This criterion would be put in place in order to avoid abuse of the NTS by individuals buying a property at its blighted value in order to sell it to the government at an un-blighted value later, thereby profiting from the difference. This protects the interests of taxpayers and of those looking to sell their property who have a compelling reason to do so.

5. Compelling reason to sell

The scheme is intended to allow a sale at the full un-blighted open market value of properties which are significantly blighted by the Phase 2a section of HS2, for those who have a compelling reason to sell. The scheme would be expected to assist those who would be placed under an unreasonable burden if they were unable to sell their property (except at a significant loss due to

the Phase 2a section of HS2) in the near future. It is not intended to act as a mechanism to either mitigate or exploit property market performance.

It is expected that, depending on the detail of the circumstances, applicants who can demonstrate that this unreasonable burden would occur within the next three years from the date of application would meet this criterion. Within the last three years of the scheme (2025-2028), this timeframe will only extend to the end of the scheme and therefore may be less than three years. This is because the market is expected to normalise towards the end of the scheme, and one year after the railway has been first open for public use, another property measure – namely, Part 1 compensation – will be available for property owners to apply for.

As set out in the HS2 Property Compensation Consultation 2013 Decision Document for Phase One, it is not considered beneficial for the government to provide specific examples demonstrating a compelling reason to sell. The Panel would consider each individual case on its unique merits. Creating a list of circumstances where applications will be accepted could perversely restrict the panel with rigid evaluation criteria that would not reflect the intended flexibility of the scheme.

By way of an example, and as set out in the HS2 Property Compensation 2013 Property Consultation 2013 Decision Document for Phase One, it is foreseeable that the following scenarios (among many others) could provide a trigger for a compelling reason to sell:

- unemployment;
- relocation for a new job;
- the division of assets as part of a divorce settlement;
- ill-health; or
- the need to release capital for retirement.

The winding-up of the estate of a deceased person would also normally be regarded as representing an urgent need to sell, even where the new owner did not occupy the property themselves.

This is not a comprehensive list, and prospective applicants to the NTS scheme should not categorise themselves as fitting into one or more of the above scenarios, but would instead need to demonstrate why they have a compelling reason to sell their property.

The evidence that the applicant would need to provide should demonstrate why they would suffer an unreasonable burden within the next three years, as a result of the circumstances set out, if they cannot sell their property at the current time. Where an application is accepted, the applicant would have a total of three years from the date of the acceptance letter to commence the process of selling their property to us. Successful applicants can request the valuations to be commissioned by HS2 Limited at any time within the first two and a half years, giving a subsequent period of six months to accept our offer and instruct their solicitors to begin the conveyancing process. If they do not instruct their solicitors within the three years, the acceptance would no longer be valid and they would need to reapply to the scheme.

Annex E: Homeowner payment

The homeowner payment scheme is for owner-occupiers of rural properties near the line of route. The aim is to ensure that people who live near the line of route receive an early share in the benefits of HS2.

The scheme would be implemented only once the HS2 hybrid bill for the Phase 2a (West Midlands to Crewe) section of HS2 becomes law. We expect this to be towards the end of 2019, but would contact people living in eligible areas when the scheme is available.

Eligible owner-occupiers will be able to claim from £7,500 to £22,500, based on their distance from the line of route:

- For properties between 120 and 180 metres from the line of route – £22,500.
- For properties between 180 and 240 metres from the line of route – £15,000.
- For properties between 240 and 300 metres from the line of route – £7,500.

We expect that most people who receive money under this scheme would not have to pay tax on it.

HS2 Limited would contribute up to £500 (plus Value Added Tax) to legal fees for a deed of receipt.

Eligibility

In order to qualify for a homeowner payment the following would need to be demonstrated:

- A qualifying interest, meaning: (1) you are an owner-occupier of the property; and (2) you have either a freehold of the property or a lease with over three years unexpired;
- your property is wholly or partly in the homeowner payment zone (if partly in this zone, either your dwelling or 25 per cent of the whole area of your land must be in the zone); and
- you were an owner-occupier of the property by the launch date of this consultation, when the proposals for the homeowner payment were first outlined.