

HS2

High Speed Two Phase 2b: West Midlands to Leeds

Safeguarding Directions

With guidance notes for local planning
authorities

July 2020



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.

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Safeguarding Directions for development affecting the route and associated works for the High Speed Two rail project – Phase 2b: Eastern Leg (West Midlands to Leeds), with connections onto the existing network

The Secretary of State for Transport gives the following Directions (“Directions”) to the local planning authorities named in the Schedule in exercise of the powers conferred by articles 18(4), 31(1) and 34(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015¹ (“the Order”).

Commencement

1. These Directions come into force on 14th July 2020 (“the commencement date”).

Application

2. These Directions apply in respect of any application for planning permission which:-
 - a) has not been finally determined by the commencement date;
 - b) relates to development within the zone specified in paragraph 3; and
 - c) is not an exempt application by virtue of paragraph 4.

Relevant zone

3. The zone referred to in paragraph 2(b) is the zone shown bounded by lines marked “Limits of Land subject to Safeguarding Direction” on the plans annexed to these Directions (being the zone relating to part of the route of a railway proposed to be constructed between West Midlands and Leeds, with connections onto the existing network).

Exempt applications

4. An application is exempt for the purposes of paragraph 2(c) if it is an application for planning permission which relates to development that:-
 - a) lies within the zone shown on the plans referred to in paragraph 3 and is shown shaded as blue on those plans;
 - b) consists only of an alteration to a building which is a hereditament that falls within the scope of section 149(3) of the Town and Country Planning Act 1990² (both before and after the development); and

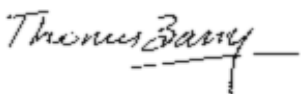
¹ S.I. 2015/595 made under the Town and Country Planning Act 1990 (c. 8), see in particular section 74.

² 1990 c. 8.

- c) does not involve, or is not likely to involve, any construction, engineering or other operations below existing ground level.

Duties on Local Planning Authorities

5. Before a local planning authority may determine any planning permission in respect of any application for planning permission to which these Directions apply it must consult High Speed Two (HS2) Limited (Company No. 06791686).
6. Where a local planning authority is required by paragraph 5 to consult High Speed Two (HS2) Limited, they must not grant planning permission otherwise than to give effect to the recommendation of High Speed Two (HS2) Limited:-
 - a) unless they have delivered to the Secretary of State for Transport the material specified in paragraph 7; and
 - b) until the expiry of a period of 21 days from the date on which that material was delivered to the Secretary of State for Transport.
7. The material referred to in paragraph 6 is:-
 - a) a copy of the application for planning permission together with a copy of any plans or documents submitted with it;
 - b) a copy of the response of High Speed Two (HS2) Limited to the consultation by the local planning authority in pursuance of paragraph 5;
 - c) such information regarding the application as the Secretary of State for Transport may require by direction under article 34(8) of the Order; and
 - d) a statement on the provisions of the development plan and other issues involved, including whether the grant of permission would be contrary to the views of another Government Department.
8. These Directions do not cancel and replace the Safeguarding Directions referred to in paragraph 9, which continue to apply.
9. The Safeguarding Directions referred to in paragraph 8 are:
 - a) Safeguarding Directions for development affecting the route and associated works for the High Speed Two rail project – Phase 2b: the Western Leg (Crewe to Manchester) and Eastern Leg (West Midlands to Leeds), with connections onto the existing network, which were issued on 6 June 2019; and
 - b) Safeguarding Directions for development affecting the route and associated works for the High Speed Two rail project – Phase 2b: Crewe to Manchester, which were issued on 15 April 2020.



Thomas Barry

A senior civil servant in the Department for Transport

Schedule

Leeds City Council

Guidance notes for Local Planning Authorities to accompany Safeguarding Directions issued for the HS2 rail project – Phase 2b: the Eastern Leg (West Midlands to Leeds), with connections onto the existing network

Background

1. These Safeguarding Directions (“Directions”) were issued and came into force on 14 July 2020 under articles 18(4), 31(1) and 34(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015³ (“the Order”). These Directions do not replace the Safeguarding Directions for Phase 2b: Western Leg (Crewe to Manchester) and Eastern Leg (West Midlands to Leeds), with connections onto the existing network, which were issued on 6 June 2019 (“the June 2019 Directions”), and the additional Safeguarding Directions for an individual site in Manchester which, were issued on 15 April 2020 (“the April 2020 Directions”). These Directions and guidance notes are issued independently of the June 2019 and the April 2020 Directions, which continue to apply.
2. To protect the Phase 2b route from conflicting development, the Secretary of State for Transport has safeguarded this section of the HS2 route using Safeguarding Directions, which are an established tool of the planning system designed for this purpose. Safeguarding aims to ensure that new developments along the HS2 Phase 2a route do not impact on the ability to build or operate HS2 or lead to excessive additional costs.
3. These Directions have been issued to the Local Planning Authority (“LPA”), by the Secretary of State for Transport. The LPA will need to consult High Speed Two Limited (“HS2 Ltd”) with regard to any planning applications falling within paragraph 2 of the Directions before determining an application for planning permission.
4. Safeguarding is kept under review and updated as the project evolves and as the level of engineering detail facilitates a greater understanding of the actual land required. This is to ensure that land which is not required for construction or operation of HS2 is not unnecessarily blighted for extended periods.
5. These Directions will be kept under review, in line with the approach taken on Phase One and Phase 2a of HS2 and other major infrastructure projects.

Processing of Applications

6. Applications for planning permission on which HS2 Ltd must be consulted, in accordance with paragraph 5 of the Directions, should be sent to :

The Safeguarding Planning Manager
High Speed Two (HS2) Limited
Two Snowhill
Snow Hill Queensway

³ S.I. 2015/595.

Birmingham, B4 6GA

And by email to: town.planning@hs2.org.uk

7. Such applications must not be determined before the expiry of the period for consultation set out in article 18(5)(b) of the Order.
8. Any applications sent to HS2 Ltd under paragraph 5 of the Directions will be considered by HS2 Ltd on a case-by-case basis on the grounds of whether the proposed development will impact on the ability to build or operate HS2 or lead to excessive additional costs.
9. Where the application does not include all the information required to allow HS2 Ltd to determine whether the development will impact on the ability to build or operate HS2 or lead to excessive additional costs, HS2 Ltd will notify the LPA without delay setting out what additional information is needed and why.
10. In order to assist developers to design proposals that do not conflict with the HS2 route, HS2 Ltd has produced information about the HS2 design criteria to be used by developers bringing forward new developments in the safeguarded area of the HS2 route. That information can be requested from:

The Safeguarding Planning Manager
High Speed Two (HS2) Limited
Two Snowhill
Snow Hill Queensway
Birmingham, B4 6GA

Or by email to: town.planning@hs2.org.uk

11. Where HS2 Ltd has not responded within the period set out in article 18(5)(b) of the Order, the LPA may proceed to determine that application. Where HS2 Ltd has responded, the LPA will not be bound by that recommendation. However, if the LPA does not accept the recommendation, it will be required to notify the Secretary of State for Transport in accordance with paragraph 6 of the Directions.
12. Where permission is refused by the LPA due to a conflict with the HS2 project, the decision notice should refer to that conflict as the reasons for refusal(s). Copies of all decisions on planning applications on which HS2 Ltd have been consulted should be sent to the Safeguarding Planning Manager at the above postal or email address. HS2 Ltd has developed procedures for handling consultations relating to the Directions and may recommend that conditions are imposed in specified circumstances and where appropriate to protect the HS2 Project.
13. Applications which the LPA is minded to approve against the recommendation of HS2 Ltd should be sent by the LPA, in accordance with paragraph 6 of the Directions with the material specified in paragraph 7 of the Directions, to:

High Speed & Major Rail Projects Property Team

Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Or by email to: highspeedrail@dft.gov.uk

And copied email to: town.planning@hs2.org.uk

14. The DfT will inform the LPA of the date of receipt of the application and the material required under paragraph 7 of the Directions and will either notify the LPA that there are no objections to permission being granted, or issue directions restricting the granting of permission specifically for that application.
15. Where the DfT has not responded within 21 days of receipt of the papers referred to above, the LPA may proceed to determine the application.

Blight and Purchase Notices

16. The provisions of the Town and Country Planning Act 1990 on blight and purchase notices will apply to property affected by safeguarding. The appropriate authority to receive purchase notices is the LPA. Blight notices should be served on the Secretary of State for Transport and sent to:

The Land and Property Team
High Speed Two (HS2) Limited
Two Snowhill
Snow Hill Queensway
Birmingham, B4 6GA

Alternatively, blight notices with attached evidence can be emailed to:
blightnotice@hs2.org.uk

Further details of the provisions and how to complete a blight or purchase notice can be obtained from the Land and Property Team at the above address or can be found on our website www.gov.uk/hs2

Planning and local land charges registers

17. In accordance with article 40(4)(b) of the Order, particulars of the Directions must be entered in Part 2 of the Register of Applications, in respect of any application for planning permission to which they apply. The DfT and HS2 Ltd consider that the safeguarding provisions should be revealed in response to Optional Enquiries sent with requisitions for searches of the local land charges register in relation to properties within the zone described in paragraph 3 of the Directions.

Extant planning permissions

18. Where the LPA is aware of, or become aware of, any extant planning permissions affecting land within the zone described in paragraph 3 of the Directions, which have yet to be implemented, it would be helpful if they could inform HS2 Ltd.

Pending planning applications

19. The LPA is reminded that the Directions issued on 14th July 2020 apply to any planning application that has not been finally determined by that date (and which includes cases where a resolution to grant a permission has been made by the LPA but the permission has not been formally issued) other than an application in relation to development of the exempted category specified in paragraphs 2 and 4 of the Directions.
20. Accordingly, the LPA must review all pending applications to determine whether the development proposed is a development to which the Directions apply.

Local Plans

21. In preparing any Development Plan Document (an area's Local Plan), the area safeguarded by the Directions should be taken into account. Where a Safeguarding Direction is taken into account in a Local Plan, it should be represented on the Policies Map (in accordance with regulation 9 of the Town and Country Planning (Local Planning) (England) Regulations 2012⁴ (as amended)).
22. Adding information about the extent of the safeguarded area on the Policies Map is helpful for those considering development in the area. However, it is important to note that the requirements of the Directions apply in the circumstances described above regardless of whether the safeguarded area is identified on the Policies Map.
23. It should be made clear in the Local Plans that the Directions are made by the Secretary of State for Transport. They are not proposals of the LPA and the HS2 Phase 2b route in question will not be determined through the development plan process. The HS2 Phase 2b route is considered in Parliament under the hybrid Bill procedures, which provide appropriate opportunities for petitions to be made to Parliament by those directly affected by the scheme.
24. Further information on hybrid Bill procedures can be obtained from <https://www.gov.uk/government/collections/constructing-the-hs2-railway> and from the HS2 Ltd Community Relations Helpdesk – telephone 08081 434 434 or HS2enquiries@hs2.org.uk
25. Where the Local Plan has been submitted for independent examination, the LPA should record any representations received which relate to the Directions and bring these to the attention of the inspector appointed to hold the examination of the Local Plan. The inspector's role is to consider the policies of the LPA set out in the Local Plan. If the inspector is satisfied that an objection is solely to matters covered by the Directions, rather than to proposals of the LPA, the inspector is unlikely to consider the objection to be relevant to the consideration of the Local Plan document.
26. The LPA, when adopting supplementary planning documents, should note in the statement

⁴ S.I. 2012/767.

of consultation any representations received which relate to the Directions.

Timing

27. These Directions come into force on 14 July 2020 and apply in respect of the applications for planning permission described in paragraph 2 of the Directions.

14 July 2020

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