

MAY 2021



HS2 Residents' Commissioner

Report 15 – May 2021

Summary

Since my last report, construction work on Phase One has escalated, with works using the first tunnel boring machines due to start shortly; the Phase 2a hybrid Bill has received Royal Assent; work has continued on the Phase 2b western leg in preparation for the submission of a hybrid Bill (anticipated within the next 12 months); and on the Phase 2b eastern leg, the government's response to the National Infrastructure Commission's report is expected shortly.

Note that the ongoing Covid-19 pandemic continues to impact the way that information is provided to all those affected by HS2.

My focus remains on the property schemes, both discretionary and statutory, and on community engagement communications, with the emphasis on improving these areas wherever possible. In this report, I will concentrate on the work I have been undertaking for the HS2 minister, Andrew Stephenson MP, as part of his Land and Property Review, and on community engagement issues, some of which I raised when I appeared before the Transport Select Committee in January.

The property schemes

I have continued to monitor the discretionary schemes and to look for ways in which to improve their accessibility to those who qualify for them.

As a general observation, applications to all schemes have decreased because of the pandemic. This has meant that, particularly for Rural Support Zone (RSZ) and Need to Sell (NTS) applications, the overall time taken for each element of the process is now shorter. More completions have taken place, enabling the successful applicants for these schemes to move on.

Phase One, Phase 2a and Phase 2b: Express Purchase zone

The Express Purchase (EP) zone applies to some properties in the surface safeguarded area. All those affected who may be eligible should already be aware of their entitlement. People who live in this area and satisfy residency requirements can serve a blight notice on the government.

As of 31 March 2021, 768 blight notices have been accepted, and a further 12 are being assessed.

Express Purchase

The EP scheme will continue to operate until the HS2 programme requires properties to be acquired. Property acquisitions on Phase One are taking place under the Compulsory Purchase Order process and, following Royal Assent, acquisitions will now commence for properties on Phase 2a.

A public consultation is expected to take place this spring on a number of proposals set out by the HS2 minister in his Land and Property Review in 2020; these proposals will include a change to the property valuation method for statutory blight cases, as used in the EP scheme.

I hope that this particular proposal, which I have been advocating for some time, will be supported, as it will benefit those whose properties are impacted by HS2. It should reduce both the adversarial nature of the process and the overall time taken (from the submission of a blight notice to the acquisition approval

required) before a property owner receives an offer to purchase their property.

Phase One and Phase 2a: Rural Support Zone

The RSZ is the area outside the surface safeguarded area and up to 120m from the centreline of the new railway in rural areas.

As of 31 March 2021, 786 applications had been received, of which 688 have been accepted and 10 are being assessed. Of the accepted applications, most have opted for the cash offer rather than choosing to sell their properties to HS2 Ltd. Of these, the majority (623 to date) continue to come from Phase 2b. On average, applicants will receive a decision on their application within 28 working days and are then able to make their own plans accordingly.

Phase One, Phase 2a and Phase 2b: Need to Sell

The NTS scheme is open to owner-occupiers who can demonstrate that they have a compelling reason to sell their property but have not been able to do so – other than at a substantially reduced price – as a direct result of the announcement of the HS2 route.

As of 31 March 2021, 686 unique applications had been received, excluding re-applications. Of these, 333 have been accepted and 15 are waiting for a decision, giving an overall acceptance rate of c.50%.

Take-up of the scheme has been slower than in previous years; however, a significant number of completions have taken place in the last six months as the property market has eased somewhat.

Phase One: Homeowner Payments

The Homeowner Payments (HOP) scheme was introduced in March 2017 for owner-occupiers of properties within 300m of the centreline for the Phase One route, following the grant of Royal Assent for Phase One. It was extended and the payments were uplifted on the granting of Royal Assent for Phase 2a in February 2021. The HOP scheme was designed to share the benefits of the railway with homeowners who may not be able to benefit directly from the railway after it has been opened for public use, because they do not live close to the stations. It was not designed to compensate homeowners for any potential impacts resulting from the pre-construction works or the construction and/or operation

of the railway.

Uptake of the scheme has been good and, as of 31 March 2021, 980 applications had been received, of which 819 have been accepted. There has been a consistent take-up along the line of Phase One, with applications from along the full length of the HOP zone. Updated guidance for the scheme, including the new payment rates and qualifying criteria, can be found here:

https://assets.hs2.org.uk/wp-content/uploads/2020/11/18165427/HS2_HOP_updated-Feb-2021_v3-WEB.pdf



Property schemes – general

HS2 minister's review

HS2 minister, Andrew Stephenson MP, published his HS2 Land and Property Review in November 2020. This contained 36 recommendations on a wide range of aspects of the land and property operation. A number of these recommendations focused upon changes to be made by HS2 Ltd; others were policy decisions which are the prerogative of the Department for Transport (DfT) or the Ministry of Housing, Communities and Local Government (MHCLG). A small number were focused upon the role of the Residents' Commissioner, where I was asked to extend my remit.

Six months have now passed since the review was undertaken. A number of these recommendations have been discharged, although all are being kept under close scrutiny and followed up. A number of other ministerial recommendations are nearing completion and further details will be published in due course.

I would like to draw your attention to the following recommendations and their outcomes.

Recommendation 7

To consider establishing virtual community forums.

The report states:

Stakeholders considered that more could be done to engage on property compensation matters at a community level, particularly where there are known specific localised sensitivities or dispersed communities with shared characteristics (such as specific business types).

Outcome

This expands upon meetings held both prior to and during the pandemic, enabling me to discuss issues and concerns directly with residents' groups, both on property compensation matters and on community issues. A number of these meetings have been held in conjunction with the Construction Commissioner, as certain issues tend to overlap our joint areas of responsibility.

Having considered the matter carefully, I do not feel that formal virtual community forums would be more effective than the current arrangements. HS2 Ltd already holds formal community meetings with affected communities. Additional meetings, for the sake of them, is not a productive use of anyone's time. It is

therefore preferable to retain the more *ad hoc* arrangements, enabling me to provide support and assistance to communities who ask.

Recommendation 8

To undertake a regular programme of planned customer surveys.

The report states:

HS2 Ltd has a Community Engagement insight programme in place which includes line of route surveys. These capture the experiences of those affected by HS2. In the past, this work has been complemented by surveys specific to land and property conducted by the Residents' Commissioner. These targeted surveys provide useful insights into what works well, and opportunities for improvements.

Outcome

A survey request form was sent out to all those who had completed the sale of their property to HS2 Ltd in 2020 using one of the discretionary property schemes. More than 20 individual homeowners responded to the survey, and I am very grateful for their responses. Of these, approximately half agreed to share further details of their experiences in a telephone conversation. This review will be an ongoing process, and a survey will take place annually hereafter.

Overwhelmingly, those who had utilised the NTS or RSZ schemes had a positive experience, with helpful and proactive case managers, and even where legal issues caused some delays, feedback was positive and complimentary.

Less positive was the feedback from those using the EP scheme, where protracted negotiations and insufficient clarity on the valuation process left some individuals feeling unhappy and aggrieved. Unfortunately in some cases, this dissatisfaction was as much with their own agents as with HS2 Ltd.

RICS does publish a professional statement for all RICS-registered chartered surveyors who are advising in respect of compulsory purchase, and the same standards should apply to those surveyors who are advising in an EP application. You should ensure that your agent is complying with the guidance set out in this professional statement so that you get the best possible advice and assistance through this difficult time.

<http://www.compulsorypurchaseassociation.org/files/02112017---RICS-CPO-PS.pdf>

A number of comments were also made in support of the online

portal proposed in the minister's recommendations and which, I am informed, will be rolled out shortly.

I received comments on the difficulties some vendors experienced in obtaining copies of surveys carried out on their properties at the request of HS2 Ltd, particularly when those surveys had a material impact on the open market value of the property.

Residents' Commissioner's recommendation

HS2 Ltd should make copies of any surveys undertaken on an applicant's property (which have an impact on the valuation of that property) available to the vendors or their agents.

Recommendation 12

HS2 Ltd to introduce an option for compensation for crop losses to be made much earlier to farmers, with payment made at the point where land is first taken into possession rather than waiting for evidence of loss.

Outcome

A new document specifically designed to help farmers apply for compensation for crop losses, together with a crop loss expedited payment form request document, has been added to the suite of documents for Phases One and 2a entitled *Claiming Compensation if You Receive a Notice*. It can be found here:

<https://www.hs2.org.uk/documents/collections/claiming-compensation-if-you-receive-a-notice/>

Recommendation 20

DfT to publish information on the type of cases where atypical remedies have been agreed, and provide more detailed guidance on how people can request their case to be considered atypically.

Outcome

Guidance has now been published to help those who wish to have their case considered as an atypical property, providing more clarity around both the application requirements and the process. Each case is unique and hence there are no standard criteria which must be met for an application to be made. By definition, few properties will qualify as atypical. The majority will be addressed under one of the other discretionary schemes; however, this guidance is welcomed as a significant enhancement to the suite of guidance documents already published.

https://assets.hs2.org.uk/wp-content/uploads/2021/03/08140852/Special-circumstances-and-atypical-properties_without-PEC-changes.pdf

Recommendation 29

HS2 Ltd to develop a disbursement template so that people understand upfront how to claim compensation and the supporting documentation they need to submit.

Outcome

A new disbursement template has recently been published and will be included in the guidance document *Selling your Home or Small Business using the Statutory Blight or Express Purchase Process*. Further details and a copy of the template can be found here.

<https://www.hs2.org.uk/documents/selling-your-home-or-small-business-using-the-statutory-blight-or-express-purchase-process/>

This is a welcome addition to the guidance documents to help those who are faced with selling their property to HS2 Ltd under the complex procedures associated with compulsory purchase and blight notices.

Recommendation 32

To implement a procedure to settle smaller-value disputes which will assist in finding resolution at an earlier stage.

The report states:

Alternative Dispute Resolution (ADR)

Many stakeholders and the Construction Commissioner

highlighted the following concerns about the HS2 ADR process:

- *it is underused;*
- *the general perception is that it lacks independence and there is little trust in the process;*
- *ADR is little understood either by the people and businesses impacted or their agents and more needs to be done to remedy this knowledge gap; and*
- *the claims that would be appropriate for ADR are too entrenched by the time it is recommended.*

Outcome

In a role similar to that of the Construction Commissioner, the proposal is for the Residents' Commissioner to assist in the settlement of smaller-value cases that have become entrenched via a small-claims-type scheme (e.g. claims for personal time under the EP scheme, where both sides are struggling to reach agreement). Input has now been received from key stakeholders, including the Royal Institution of Chartered Surveyors (RICS), and further information will be available in due course.

Settlement Deeds scheme

In Information Paper E23, and the more user-friendly *Phase One HS2 Guide to Ground Settlement*, HS2 Ltd refers to the impact that tunnelling will have on property from the construction of the tunnels and the operation of the trains. The paper sets out the company's approach to monitoring and measuring any settlement which may occur, the mitigation measures it will take to minimise any impacts, and the legal deed which it is offering to homeowners. Further details can be found here:

<https://www.hs2.org.uk/documents/hs2-guide-to-ground-settlement/>

I am pleased to report that more than 100 deeds have now been requested and over 50 have been fully executed. If you believe that you may be affected by tunnelling and wish to register for a settlement deed, then please contact HS2enquiries@hs2.org.uk.

Community engagement

The ongoing pandemic continues to influence the way in which community engagement is working, with a focus on IT-based solutions. HS2 Ltd has put forward a number of virtual events, including webinars and online information events. I urge you to look at "HS2 in Your Area" on its website for information and to participate in these events.

One example of a virtual event is the first permanent virtual room focused on the Water Orton viaduct, which has recently been launched on the HS2 in Warwickshire community website. It includes a virtual fly-through and visualisations of the Water Orton viaducts, including the option to toggle between summer and winter views. There is also a booklet in several different languages.

<https://hs2inwarwicks.commonplace.is/proposals/water-orton-viaducts>

Another example is the online design exhibition room that shares information and seeks feedback from the community on the Oxford Canal viaduct. The local community has also been invited to sign up to a series of future webinars to hear more about the thinking behind the design from the engineers and architects involved.

<https://www.hs2.org.uk/explore/hs2-design-engagement-oxford-canal-viaduct-spring-2021/>

In addition, HS2 Ltd is holding one-to-ones and drop-ins in a virtual format so that people can discuss individual cases with experts online.

Integrated Project Teams

In the main, the feedback that I have received has been positive about the level of engagement which has taken place, although in some communities, the change to the new Integrated Project Teams (IPTs), especially in Phase One where the contractors are providing the information on works, has caused issues with some communities.

The HS2 website states:

The four Integrated Project Teams (IPTs) are each formed of a contractor, their designers and embedded HS2 staff that work with the HS2 Ltd. Client team. This approach facilitates collaborative ways of working and efficient decision making. Each IPT is led by a HS2 Project Client supported by a Joint Venture Project Director.

A number of communities have welcomed the easier engagement with their local HS2 construction team, but others have felt that their concerns have been passed between HS2 Ltd and its contractors, with no clear ownership of issues. Ultimately HS2 Ltd is responsible for the project and its delivery and remains accountable at all times.

I have seen examples of excellent engagement by the IPTs, but sadly I have also seen poor examples. HS2 Ltd must continue to work with the IPTs to ensure consistency, both in its approach and in the information it provides to the communities.

Keeping communities informed

In his six-monthly report to Parliament in March 2021, the HS2 minister addressed some issues of community engagement that had been raised with him and he noted areas where HS2 Ltd needed to strengthen its community engagement activities. When I spoke with the community engagement director, it became apparent that the Community Engagement Strategy, which was built on a bedrock of ten community commitments, needed to be refreshed. It is now four years since it was first introduced in 2017, and HS2 has progressed. Construction on Phase One is moving forwards rapidly, and Phase 2a will be commencing shortly. The revised strategy needs to take more account of these increased activities whilst still recognising that the communities on Phase 2b

continue to live with uncertainty and lack of clarity. A balance must be struck between the needs of all concerned along the different parts of the route.

HS2 Ltd is keen to be a good neighbour and publishes a six-monthly report on its progress. It must, however, also acknowledge where it has made mistakes and demonstrate how it has learned from these to ensure that such mistakes are not repeated. One recent example concerns the movement of large pieces of machinery, escorted by the police. The movements should have taken place out of hours to minimise potential disruption, as agreed with local stakeholders, but last-minute timing changes and an abnormal load trapped the residents of five properties in their houses for a number of hours. The lessons from this were to ensure that:

- where agreement is made with local stakeholders, it is adhered to at all times
- out-of-hours movements only take place at those times
- local roads are avoided wherever possible
- there is an alternative plan formulated in case unforeseen issues arise.

Recommendation

HS2 Ltd publishes case studies within its Being a Good Neighbour report. It should also publish lessons learned within that report and ensure that all learning and best practice are shared amongst the main works contractors on a regular basis.

Advance notices

I have recently received a large number of emails regarding the publication by HS2 contractors of a notice to close the A413 over two weekends. The notice was issued in advance of approval by the local authority. The approval was subsequently refused and the notice had to be withdrawn, leading to confusion and mistrust by the communities affected.

HS2 Ltd and its contractors are obliged by the Code of Construction Practice to issue notices of trunk road closures at least 14 days before the event is due to take place. Equally, communities both want and need as much notice as possible of any significant road impacts in their areas.

Recommendation

There needs to be greater collaboration between HS2 Ltd, its contractors, and the local authorities in each area when preparing

and managing applications for consents which will impact major trunk roads, to avoid late changes to notifications.

Next steps

I will be attending a number of virtual engagement events in the next quarter across all three phases of the route.

My email address is: residentscommissioner@hs2.org.uk or please write to me at: c/o High Speed Two (HS2 Ltd), 2 Snowhill, Snow Hill Queensway, Birmingham, B4 6GA.



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