

November 2021



HS2 Residents' Commissioner

Report 16 – November 2021

Summary

Since my last report, construction work on Phase One continues, with tunnel boring underway in the Chilterns; the Phase 2a preparatory works (including ground investigation and survey works) are ongoing; work continues on the Phase 2b western leg in preparation for the submission of a hybrid Bill; and on the Phase 2b eastern leg, the Integrated Rail Plan is expected shortly and may provide more information on the Phase 2b eastern leg.

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.

As the restrictions have lifted, I have recently undertaken site visits and route tours in Phases One and 2a, and attended an in-person information event in Manchester in July to meet some of those who will be affected by Phase 2b. I have also attended virtual presentations and meetings, including ones with the Euston Community Representatives Group and on tunnelling in Phase One.

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 continue to be low. As the pandemic lifts and ways of working return to more normal, I have been out and about on route tours and meeting with affected parties, as well as with HS2 Ltd staff and contractors.

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 30 September 2021, 784 blight notices have been accepted, and a further 7 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 under the Compulsory Purchase Order process are now coming to an end and, following Royal Assent, compulsory acquisitions will commence for properties on Phase 2a.

Express Purchase will therefore now be limited to properties on Phase 2b. A public consultation took place during the spring of 2021 on a number of proposals set out in the HS2 minister's Land and Property Review 2020; they included a change to the property valuation method for statutory blight cases as used in the EP scheme. I await the outcome and am hopeful that the recommendation to change the property valuation methods for Express Purchase (which I made in the spring of 2019) will be implemented for residential properties.

The current use of negotiation to determine valuations on residential properties is often too lengthy and adversarial, and I hope that the more streamlined valuation process of the Royal Institute of Chartered Surveyors will be implemented. This will

help those affected to move on more quickly should they choose to sell their properties to HS2 Ltd in advance of a Compulsory Purchase Order.

Phase One and Phase 2a: Rural Support Zone

The Rural Support Zone (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 30 September 2021, 808 unique applications had been received, of which 702 have been accepted and 12 are being assessed. Of the accepted applications, most have opted for the cash offer rather than choosing to sell their properties to HS2 Ltd, and of these, the applications from the Phase 2b eastern leg predominate.

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

The Need to Sell (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 30 September 2021, 697 unique applications had been received, excluding re-applications. Of these, 337 have been accepted and 10 are waiting for a decision, which gives an overall acceptance rate of c.45%.

Phase 2b eastern leg remains at the lowest acceptance rate of 31%.

Phase One and Phase 2a: 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 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 30 September 2021, 1,001 applications had been received, of which 877 have been accepted across Phases One and 2a.



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.

Twelve months have now passed since the review was undertaken. I am part of an oversight group monitoring the progress on the implementation of these recommendations and I am pleased to report that more than half have now been discharged.

Minister's recommendation 32

One of the recommendations applicable to this role was recommendation 32:

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

The procedure has now been agreed and guidance published, which can be found here:

https://assets.hs2.org.uk/wp-content/uploads/2021/09/CS1612_Faster-Evaluation-of-Small-Value-Disturbance-Disputes_WEB.pdf

This enables referrals to be made to the Residents' Commissioner where there are disputed amounts of disturbance compensation totalling no more than £10,000.

Other ministerial recommendations

HS2 Ltd has continued to make progress on other recommendations from the minister's review and I welcome them all. They include the following, along with their outcomes.

Minister's recommendation 1

HS2 Ltd to introduce a user-friendly online portal that allows people to view the progress of their cases, including details of their assigned case manager as their point of contact. The online portal is to be developed to allow the submission of

documentation or evidence and view upcoming activities and correspondence.

Outcome

The portal was introduced in April 2021 and has currently been made available to more than 180 users of the discretionary property schemes for all phases. It enables the user to track the progress of their case against key milestones. Further research is underway to review enhancements to the capability of the portal, including allowing users to submit documentation.

I am particularly pleased that this recommendation has been implemented as I included a similar recommendation in my report of June 2019. In my discussions with users of the discretionary schemes, the ability to track their applications through an online portal was paramount, and that requirement has only been strengthened by the recent pandemic.

Minister's recommendation 9

HS2 Ltd to build a feedback form into its online portal and monitor the feedback, to seek continuous improvements in the "treatment of people".

Outcome

A feedback form has now been incorporated into the online portal. This is being used to resolve any immediate issues and develop future improvements.

Minister's recommendation 14

DfT and MHCLG to extend entitlement to a home-loss payment to houseboat owners who cannot reasonably be relocated, so they are placed on the same footing as mobile home owners.

Outcome

The HS2 property schemes' guidance document, *Special Circumstances or Atypical Properties*, has been updated to show that, as long as some specified eligibility criteria are met, houseboat owners may qualify for a non-statutory payment equivalent to the home-loss element payable to homeowners under the Compensation Code (mobile homes already qualify); houseboat owners and mobile homeowners may also qualify for a non-statutory noise disruption payment.

Minister's recommendation 33

HS2 Ltd to set timelines in the ADR process, to include appropriate triggers for HS2 Ltd to suggest ADR.

Outcome

It is not always possible to reach agreement, particularly in cases where the valuation of property is agreed by negotiation such as for compulsory purchase or when using the EP scheme. HS2 Ltd's Alternative Dispute Resolution (ADR) scheme was introduced in May 2018, but has not been well-used as often, by the time it is introduced, the parties to the claim are usually too entrenched in their positions for it to be beneficial.

HS2 Ltd has introduced a more proactive approach to resolving disputes in its document *Alternative dispute resolution for compulsory purchase claims*, which can be found here:

<https://www.hs2.org.uk/documents/alternative-dispute-resolution-for-compulsory-purchase-claims/>

In brief, it allows ADR to be proposed earlier in the process, once it is apparent that the parties are unlikely to reach agreement through negotiation.

ADR is an opportunity to reach agreement without having to incur the time and expense of a referral to the Upper Tribunal (Lands Chamber), and those in dispute should be aware of the opportunities it offers.

Farmers and growers

The Independent Construction Commissioner and I recently met with a number of farmers affected by HS2 on both Phases One and 2a of the line of route. Those at the meeting shared with us their views on the HS2 project, including issues related to engagement, access, feedback, construction impacts and governance.

We have fed these observations back to HS2 Ltd and look forward to working with the company to improve a number of the processes in the future.

Farmers are particularly impacted by the project as they must live and work around the ongoing construction and will always be impacted where the rail line traverses their land. Where access to their farm holdings is of particular concern, both HS2 Ltd and its construction partners need to be more mindful of the impact this will have on their operation.

There is also an issue where land is tenanted rather than owned by farmers. Notices concerning construction impacts are often delivered to and discussed with the landowner, putting the burden of communication onto them for their tenant farmers. In

most cases, through the land interest questionnaires that HS2 Ltd requires landowners to complete, HS2 Ltd will receive details of the tenants in occupation.

Where possible, HS2 Ltd should ensure that its communications are widened to include tenant farmers as well as landowners.

Recommendation

HS2 Ltd should ensure that, where possible, all communications are issued to tenant farmers at the same time as landowners.

Community engagement strategy

In my last report I noted that, from comments made by the HS2 minister in his spring report to Parliament and from my own observations, HS2 Ltd's community engagement strategy needed to be refreshed. It had been launched in 2017, replacing the 2015 Residents' Charter, and included ten community commitments.

Those ten community commitments were ambitious and reflected the stage at which the project was at the time. Phase One had recently received Royal Assent, Phase 2a was preparing to start the hybrid Bill process, and Phase 2b was very much still in the early planning stage.

The project is now in a significantly different place, and the community engagement strategy needs to encompass not only those already experiencing the effects of construction on Phase One, but also those communities where construction is still many years away from starting.

The original ten community commitments were wide-ranging and included forward-looking commitments on HS2's legacy, as well as the more practical commitments around operating the helpdesk and responding to complaints.

The new community engagement strategy, which was robustly tested with the help of local focus groups, can be found here:

<https://www.gov.uk/government/publications/hs2-ltds-community-engagement-strategy>

It retains the ten community commitments but the delivery of each of these commitments is more clearly explained, enabling them to be more accurately measured and reported in the biannual progress reports.

The strategy sets out HS2 Ltd's approach to community engagement and what it means for those who either live or work within the communities along the line of the new railway. The

aspiration is to respect both people and places as HS2 is built.

Each of the commitments is focused around one of the four tenets of the strategy:

- Informing
- Involving
- Responding
- Consulting.

I welcome this new strategy and look forward to monitoring the progress the company makes in delivering on its commitments.

I made a recommendation in my last report that HS2 Ltd should include within its progress reports some examples of lessons learned from engagement which did not go according to plan. I was extremely pleased to see a number of these lessons, and the learning that came from them, in the last progress report. Such reporting will enable other Integrated Project Teams to avoid making similar mistakes.

A link to the progress report can be found here:

<https://www.hs2.org.uk/documents/community-engagement-progress-report-july-2020-to-march-2021/>

Keeping communities informed

Integrated Project Teams

In my last report, I observed that, in the main, the feedback which I had received had been positive about the level of engagement by the new Integrated Project Teams (IPTs).

I was therefore disappointed to have recently received an email regarding a communication on works commencing imminently at the North Portal near Great Missenden. Whilst the notice described in outline what was to be done, my correspondent was left with a number of questions and a lack of clarity on what was intended and when. Although the intention had been to inform the community about what was happening, the notice was short on detail and lacking any helpful maps or plans to explain what was taking place and when.

When this was raised with them, the Align IPT immediately offered to meet the correspondent and answer all of his queries. They have also confirmed that they will post additional information online and undertake a local door-knocking exercise to ensure that those most immediately affected are aware of the works.

The first commitment HS2 Ltd made in its new strategy was:



“We will tell you about HS2 works in your area.”

That information needs to follow four basic principles:

- what work is being done
- how is it being delivered
- when is it taking place
- where is it happening.

Communities need and deserve clarity on the works. All communications must meet these basic principles, and communities have a right to expect that they will.

Recommendation

HS2 Ltd must assure the quality and clarity of all information notices being issued by its delivery bodies to the local communities.

Visitor centres

I recently had the opportunity to experience the HS2 visitor centre operated by Align IPT at the South Portal construction site. The visitor centre includes a model of the tunnel boring machine, a construction model of the Colne Valley viaduct, and excellent representations of the construction process for both the tunnel and viaduct. It brings the project to life and shows the possibilities for employment and skills in the engineering sector that HS2 offers.

This is a fantastic resource that has, so far, been made available to only a limited number of schools, local authorities and residents' groups. I urge HS2 Ltd to increase the opportunities to visit this existing resource and, where possible, to provide similar resources to inform both those who are affected by the project and those who are simply interested in this unprecedented construction project.

Recommendation

Where possible, HS2 Ltd should make more educational opportunities available to members of the public through visitor centres and other similar resources, so that they can understand and experience the construction of the rail line.

Next steps

I will continue to go out and about on route tours, and to see and experience some of the issues which individuals raise with me, to gain a better understanding and to work with HS2 Ltd to continually improve in its dealings with residents and local communities.

I have had the privilege of being HS2 Ltd's Independent Residents' Commissioner for some seven years. I have decided that it is now time for me to step aside and for another to take my place. The recruitment process for my successor is underway and it is my intention to step down from this role in early 2022.

The project has changed out of all recognition in that time, and I would like to thank everyone who has contacted me over the period to share their stories or to ask for help and advice. It has been those examples which have helped me to make the 90 recommendations in my reports and to ensure that the focus of the project has been fixed firmly on the residents and communities it is affecting.

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