

HIGH SPEED TWO: PROPERTY CONSULTATION ON A PROPOSED EXCEPTIONAL HARDSHIP SCHEME (EHS) FOR PHASE TWO

SUPPLEMENTARY INFORMATION NOTE

- 1) The Government continues to welcome feedback on its proposals to introduce an Exceptional Hardship Scheme (EHS) in respect of Phase Two of HS2. In response to some feedback we have received during the consultation, we have decided to make available some further information. This is to supplement the consultation document that we published on 28 January 2013, the consultation for which is still running. While we do not consider all this further information to be necessary for consultees to be sufficiently well-informed on the proposals, we recognise that some consultees may take a different view. We are also taking this opportunity to clarify certain aspects of our consultation document.
- 2) In light of this, consultees now have extra time to consider this information. The closing date of the consultation is now **5pm on 20 May 2013**.
- 3) Those who have already submitted a response to the consultation can submit a further response, should they wish to. Both initial and subsequent responses will be considered in our analysis.
- 4) This note covers the following:

PART 1 (and Appendices) – ADDITIONAL INFORMATION

- Feedback about the operation of the Exceptional Hardship Scheme (EHS) for Phase One
- Data about the operation of the EHS for Phase One
- Publication of a report by CB Richard Ellis on property blight

PART 2 - CLARIFICATION

- Explanation of the terms 'unblighted open market value' and 'realistic asking price'
- Scheme criterion 2 'location of property' – why we have this criterion
- Do applicants have to meet all of the criteria to be accepted under the proposed scheme?

PART 1 - ADDITIONAL INFORMATION

Feedback that we have received on the operation of the EHS for Phase One

- 5) In paragraph 1.8 of the consultation document we refer to feedback that we had received on the operation of the EHS for Phase One of HS2. We frequently receive feedback from many sources and those who administer the scheme have, from that feedback, been able to identify and compile a

list of the most significant issues and the Government's response to them, which can be found in the table below.

Issue	DfT and HS2 Ltd response
a) Complexity of the application form guidance. Clarity on what documentary evidence is required for the application.	We welcome any feedback which could help us to improve our guidance to applicants. In paragraph 2.40 of the consultation document, we have proposed that for a Phase Two EHS we would make clear in our guidance the types of evidence expected and the level of detail required from applicants and also provide a more detailed explanation of the operation of the scheme aimed at clarifying common misunderstandings and questions.
b) Consistency and fairness of the requirement to re-apply against all criteria when making a fresh application.	We have proposed that for the Phase Two scheme, applicants need only re-apply in relation to the criteria against which they were previously unsuccessful. This is provided that the re-application is submitted within six months and that there has been no material change to the applicant's circumstances. Otherwise, re-applications would need to address all five proposed criteria. See paragraphs 2.36 and 2.37 of the consultation document.
c) Provision and assessment of proof under criterion 2 – 'location'. Would a set qualifying distance be fairer?	<p>Setting a boundary that is a fixed distance from the line would not be fairer as it would not take into account the very variable characteristics of the proposed line.</p> <p>Further, we believe that drawing a boundary would in itself risk creating significant blight as it would suggest that the Government believed that all properties within that boundary were blighted.</p> <p>We want the panel to have as much information as possible, so for the Phase Two scheme we have proposed that mapping software and photographs, when these become available, are used to assist the panel in considering this criterion.</p> <p>Further, we have proposed that applicants may wish to include their own photographic or other evidence of the features of their property and the immediate vicinity to support their statements about the effects on the property.</p> <p>See paragraph 2.38 in the consultation paper.</p>

	<p>See also Part 2, Criterion 2 – location of a property, paragraphs 15 and 16 of this Supplementary Information Note.</p>
<p>d) Provision of panel members who are specialists in a relevant field. For example, a doctor or an accountant</p>	<p>This is an understandable request from those that are applying in relation to specific issues. However, it is impractical to operate a system that considers requests promptly yet has representatives from all potentially relevant fields present at each panel meeting.</p> <p>Nor could we select a smaller number of experts - people in a wide range of circumstances apply to the EHS. It would be inappropriate and unfair to have experts in some areas while others fall outside the specific remit of anyone on the panel.</p> <p>Therefore we are content with our proposal that that the panel comprises a range of informed laypeople drawn from a range of professional backgrounds and that applicants provide information in a way that can be understood by non-experts, which can include expert evidence for example reports from specialists such as medical practitioners/doctors.</p>
<p>e) The independence of an EHS panel and framework of valuers appointed by HS2 Ltd or DfT.</p>	<p>We have proposed a ‘majority independent’ panel for the Phase Two EHS that for each meeting would comprise two people who are not employed by HS2 or DfT and are completely independent of both organisations. It is proposed that a third member would be a HS2 Ltd staff member. Members of the HS2 Ltd property team, which would operate the EHS, would not be eligible for this role.</p> <p>It would be impractical to appoint valuers afresh each time HS2 Ltd need to procure valuations. Instead, valuers must pre-qualify for this work and enter into an arrangement called a ‘framework’. Valuers for specific pieces of work are chosen from those who are on the framework. They remain independent of HS2 Ltd.</p>
<p>f) Appointing local property experts rather than national companies to undertake valuations.</p>	<p>In the pre-qualification process, the independent RICS Registered valuers who make up the panel for the Phase One EHS were required to demonstrate that they had coverage in their respective areas along the route corridor. For Phase Two we propose to use valuers procured and pre-qualified in a similar way.</p>

	<p>Further, RICS Registered valuers are expected to ensure they have the competence and professional knowledge to conduct and report valuations in accordance with the 'Red Book' manual of valuation standards. Bringing all the available information together to establish a professional opinion of value is part and parcel of the valuer's role.</p>
<p>g) Requirement to send original versions of documents for the panel's consideration.</p>	<p>It is important that we see original or certified copies of original documents supporting applications so that we can verify the case that applicants are making and protect the taxpayer against fraudulent applications.</p> <p>Currently the details of how the scheme would operate for Phase Two, such as this, are not finalised. Following the consultation we will consider administrative improvements, including the use of technology.</p>
<p>h) The length of time taken to process cases.</p>	<p>We appreciate that this is a key concern for applicants. Should we go ahead with an EHS for Phase Two we would aim to hold panel meetings more frequently.</p> <p>Following the consultation, we will also investigate measures to streamline the process for accepting or declining applications.</p>
<p>i) Absence of an appeals process and the need to re-apply.</p>	<p>The process of re-application is an effective way of asking us to look again at the applicant's case, take a new decision. It is more beneficial for applicants to re-apply together with any further supporting evidence or information on which a reconsidered can be based rather than to simply appeal against the previous decision on the basis of the previous application.</p> <p>Phase Two EHS proposals also include a streamlined re-application process, as described above, whereby applicants do not need to submit a full application to re-apply.</p>
<p>j) Differentiating between criterion 2 (location) and criterion 3 (effort to sell and blight). Should acceptance on one negate the need to satisfy the other?</p>	<p>The purpose of the location criterion in both the Phase One EHS and the proposed Phase Two scheme 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 line. The blight</p>

	<p>which prevents a sale is assessed separately under the blight criterion (effort to sell).</p> <p>There is a clear need for a location criterion that links the geography of the property with the geography of the line as currently proposed.</p>
<p>k) Applicant interaction with the panel and whether the submission of additional evidence should be possible during the decision-making process.</p>	<p>The details of the administration of the Phase Two scheme have not been finalised, but we will continue to consider how we can learn from the operation of the Phase One scheme to make it clearer to applicants what evidence we need them to provide.</p> <p>The proposed Phase Two scheme would not allow for applicants to attend panel meetings in person. We consider that it is reasonable that applications are documentation based]</p> <p>We have proposed in paragraph 2.40 of the consultation document to provide guidance that makes clearer the types of evidence and the level of detail that would be required from applicants.</p>

Data about the operation of the EHS for Phase One

6) We have been asked about statistical information relevant to the operation of the EHS for Phase One, over and above the statistics on the Phase One EHS that we update monthly on the HS2 Ltd website property page. We now provide the following:

- The number of cases rejected and accepted under each of the five criteria. This is at Appendix A.
- The distances from the line of successful and rejected applicants. These are at Appendix B.
- Property types for successful and rejected applicants. This is at Appendix C.
- Data about applications where extenuating circumstances applied. This data is at Appendix D. This data will be more readily understood by reading the section below (at paras 19 and 20) about whether applicants need to meet all of the criteria to be successful under the scheme.

We have been asked about urban and rural properties. However, as we do not classify applications in this way we are unable to provide this information.

We have also been asked about the categories of exceptional hardship into which the successful cases fall e.g. numbers due to health issues,

financial issues, deceased persons etc. However, we are unable to provide this information as we do not categorise applications by types of exceptional hardship.

Report on a study of property blight

- 7) On 21 March 2013, the Department for Transport placed on its website a study commissioned by High Speed 2 Ltd to examine whether the announcement of the HS2 route in March 2010 impacted on local housing market activity. The study compared residential property transaction levels and values in the six months before and after the announcement. The study can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153664/blight-study.pdf

- 8) We consider that this report is of only peripheral relevance to the proposed EHS for Phase Two. It confirms our expectation that property prices in areas close to the proposed London to Birmingham (Phase One) route were reduced following the announcement of that route. We expected that this would also happen for Phase Two - indeed, the proposed EHS is part of our response to this. (see paragraph 1.2 of the consultation paper).
- 9) People reading the CBRE report should note that the report does not give a long term picture of blight. Experience suggests that blight is always worse immediately following the announcement of a project and that prices recover when the effects of an infrastructure project are found to be not as bad as feared.

PART 2 - CLARIFICATION

What do ‘realistic asking price’ (consultation paper paragraph 2.20) and ‘unblighted open market value’ (consultation paper paragraph 2.34) mean?

Realistic Asking Price

10) In paragraph 2.20 of the Phase Two EHS consultation document it was our intention to specify that we meant the price that a recognised estate agent would advise to be a realistic asking price for the property, were there no HS2. The paragraph should therefore be read as:

“Applicants would need to demonstrate that they had already made all reasonable efforts to sell their property within the current market conditions. For example, that it had been on the market for a minimum of three months with at least one recognised estate agent; and that as a direct result of the Phase Two initial preferred route no offer had been received that was within 15% of a realistic unblighted asking price.”
(Additional text underlined)

11) We know that buyers and sellers often agree a price that is lower than the asking price – on average 7.5% below according to Hometrack data. Therefore we expect applicants to demonstrate that nobody in the open market was prepared to pay a price that the seller would normally have accepted. Our test for this under criterion 3 is to ask applicants to demonstrate that nobody has made an offer for that property that is within 15% of the unblighted asking price. This is a long standing approach used over the years by other compensation schemes, for example by Channel Tunnel Rail Link, Crossrail and by the Highways Agency on road schemes.

12) During the operation of the Phase One EHS, the panel considering applications has used information from estate agents about the marketing of the property in question to inform its assessment against criterion 3. The panel compares any offers received against the agents’ view of what a realistic unblighted asking price is. The panel also takes into account each agent’s view on what the ‘blighted asking price’ might be and what the achievable sale price – both blighted and unblighted - would be expected to be. Applicants do not need to commission these valuations. We propose to operate in the same way for Phase Two.

13) However, our interest in these figures does not mean that we would expect an applicant to accept the blighted value of a property (i.e. the amount the property is worth following the HS2 announcement) if that amount is greater than 15% below the realistic unblighted asking price were there no plans for HS2.

Unblighted Open Market Value

14) In the event that we agree to buy a property, we will offer 100% of the unblighted open market value, assessed as described in paragraph 2.31 to 2.35 of the consultation document. The unblighted open market value assessed at that point may be different from the unblighted realistic asking price when the property was originally offered for sale. This may be because of changes in the wider property market since the property was originally offered for sale, or because the opinion of different agents is being sought.

Criterion 2 – location of a property

15) The proposed 'location' criterion is an additional test to 'effort to sell' – the blight criterion (criterion 3). Judgment would always be involved in the decision on criterion 2, guided by the available information submitted by applicants as well as the engineering and construction plans. Since we are proposing that there is no outer geographical limit for the EHS, there is a clear need for a criterion that links the geography of the property with the geography of the line as currently proposed. This ensures that the Government is not obliged to accept an application from an unreasonable distance away.

16) In assessing against criterion 2, the panel consider the likely impact on the property of the construction or operation of the line, that is the likely physical impact on the property's setting, and not the impacts on the property market. The panel is asked to consider whether the property is either "directly on the line of the route; or, in such close proximity to the route that it would be likely to be substantially adversely affected by the construction or operation of the new line". Each property is considered on a case-by-case basis and there is no fixed distance within which a property must be situated in order to satisfy this criterion. Distance from the route is one factor, but others are

- 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 if 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.

17) Experience of Phase One applications shows that this criterion prompts applicants to provide important information on the situation of a property which is relevant to the overall consideration of the application.

18) Hardship schemes associated with other transport infrastructure projects include a location criterion. The Crossrail Hardship Scheme focused on the expected construction effects of the project and did not set a

geographic boundary, leaving it to the discretion of the decision maker to consider the seriousness of the effects. Details of the Crossrail Hardship scheme can be seen in its published paper C8 – Purchase of property in cases of hardship. This can be found at: www.crossrail.co.uk/about-us/crossrail-bill-supporting-documents/information-papers. The HS2 Phase One EHS and the proposed Phase Two EHS are more generous as they consider the effect of the operation of the line as well as its construction.

Do applicants have to meet all of the criteria to be accepted under the proposed scheme?

- 19) No. While we ask that applicants provide evidence that they meet all five of the scheme's criteria, the decision maker may exercise discretion in relation to any criterion if there is a strong case overall for an application to be accepted. This process relates to (and is referred to as) extenuating circumstances.
- 20) For example, for the Phase One EHS so far, there have been 12 cases where criterion 2 (location) was judged to be not met but which were accepted overall.

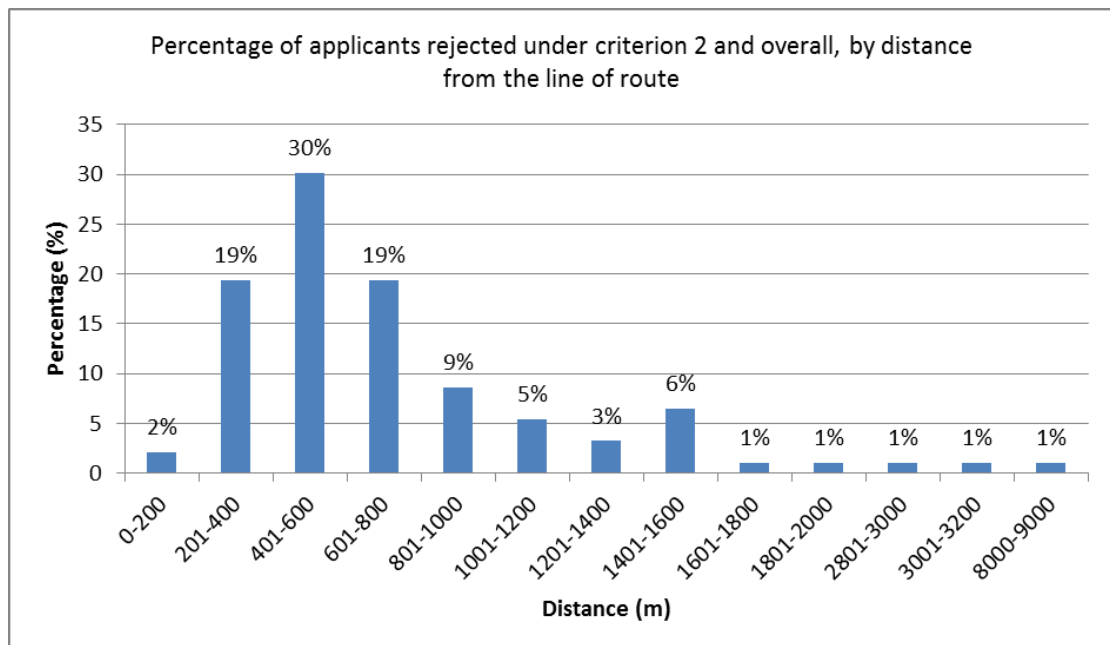
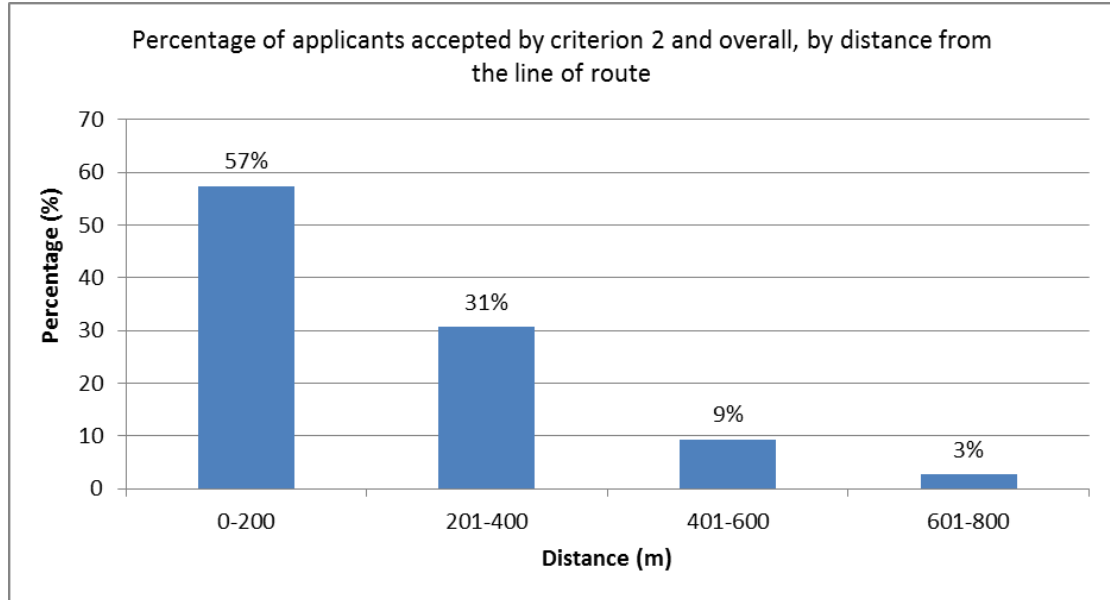
Appendix A

Number of Phase One cases accepted and rejected under each of the five EHS criteria

Outcome	EHS Criteria				
	1	2	3	4	5
Accepted	367	273	210	390	129
Rejected	23	117	180	0	261

Appendix B

Distance from the line of successful and rejected Phase One applicants¹



¹ Percentages shown in the two charts are rounded to the nearest whole number.

Appendix C

Property types for accepted and rejected Phase One applications

Outcome	Property Type		
	Residential	Commercial	Agricultural
Accepted	101	0	3
Rejected	271	4	11

Appendix D

Statistics relating to Phase One extenuating circumstances

	Total number of applications	Number out of the total deemed to have extenuating circumstances and accepted overall	Comments
Number of applications accepted under criterion 3 but did not meet one or more of the other criteria	134	20	N/A
Number of applications rejected under criterion 2 but accepted under criterion 3	41	7	In all 7 cases criterion 2 was the only criterion not met
Number of accepted applications where not all five criteria were met		29	N/A