

HIGH SPEED TWO PHASE 2a INFORMATION PAPER

B1: UNDERSTANDING THE BILL

This paper outlines an introduction to the provisions that are contained in the hybrid Bill for HS2 Phase 2a.

It will be of particular interest to those potentially affected by the Government's proposals for high speed rail.

This paper was prepared in relation to the promotion of the High Speed Rail (West Midlands-Crewe) Bill which is now enacted. It was finalised at Royal Assent and no further changes will be made.

If you have any queries about this paper or about how it might apply to you, please contact the HS2 Helpdesk in the first instance.

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B1: UNDERSTANDING THE BILL

1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in phases: Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route to Crewe. Phase 2b will extend the route to Manchester, Leeds and beyond. The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act 2017.
- 1.2. HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.3. In July 2017, the Government introduced a hybrid Bill¹ to Parliament to seek powers for the construction and operation of Phase 2a of HS2 (the Proposed Scheme). The Proposed Scheme is a railway starting at Fradley at its southern end. At the northern end it connects with the West Coast Main Line (WCML) south of Crewe to allow HS2 services to join the WCML and call at Crewe Station. North of this junction with the WCML, the Proposed Scheme continues to a tunnel portal south of Crewe.
- 1.4. The work to produce the Bill includes an Environmental Impact Assessment (EIA), the results of which are reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs)², which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.5. The Secretary of State for Transport is the Promoter of the Bill through Parliament. The Promoter will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill. This body is known as the 'nominated undertaker'. The nominated undertaker will be bound by the obligations contained in the Bill and the policies established in the EMRs. There may be more than one nominated undertaker.
- 1.6. These information papers have been produced to explain the commitments made in the Bill and the EMRs and how they will be applied to the design and construction of the Proposed Scheme. They also provide information about the Proposed Scheme itself, the powers contained in the Bill and how particular decisions about the Proposed Scheme have been reached.

¹ The High Speed Rail (West Midlands – Crewe) Bill, hereafter 'the Bill'.

² For more information on the EMRs, please see Information Paper E1: Control of Environmental Impacts.

2. Overview

- 2.1. This information paper provides a brief introduction to the Bill, the principal provisions it contains and where to find them.
- 2.2. The Bill consists of proposed legislation. If authorised by Parliament and given Royal Assent, the Bill becomes an Act and its provisions become law. The effects of the provisions in the Bill *if they become law* are described below.
- 2.3. In general, we refer to “the Bill”. However in some provisions, the wording of the Bill refers to itself as an Act, such as in clause 2 where it refers to “the Act limits”. For consistency, we also use the term “Act limits” below.
- 2.4. The principal provisions of the Bill fall under the following headings:
 - **Works:** the Bill authorises the works that are required to construct and maintain Phase 2a and other connected works;
 - **Deposited plans and sections:** the plans and sections are deposited with the Bill and show, in particular, the location of the works and the Act limits (including the limits of the land to be acquired and used);
 - **Compulsory acquisition of land:** the Bill contains powers for the Secretary of State to compulsorily acquire land or rights over land on a permanent basis within the Act limits which, among other things, enables the works to be carried out;
 - **Extinction and exclusion of rights over land:** private and other rights over certain land within the Act limits will be extinguished and new rights of way excluded;
 - **Temporary possession and use of land:** where land is required on only a temporary, rather than a permanent basis, for example in the case of construction sites, the Bill contains a power for the nominated undertaker to use and take temporary possession of land;
 - **Planning:** the Bill grants deemed planning permission for the carrying out of development authorised by the Bill;
 - **Deregulation:** the Bill contains provisions disapplying or modifying existing regulatory regimes such as those for listed buildings, ancient monuments and burial grounds;
 - **Railway matters:** these provisions set out how Phase 2a will integrate with the existing rail infrastructure and regulatory regime;
 - **Nominated undertaker:** this sets out the process for the Secretary of State to appoint the nominated undertaker responsible for delivering the Proposed Scheme;

- **Statutory undertakers:** the Bill contains provisions protecting statutory undertakers, such as utilities companies, and extends planning permission to works carried out by statutory undertakers;
 - **Reinstatement and environmental works:** the Bill enables the nominated undertaker to carry out works to reinstate businesses or facilities within the Act limits and allows for the enforcement of environmental covenants;
 - **Further high speed rail works:** this clause contains provisions that are relevant if an application is made for an order under the Transport and Works Act 1992 which relates to Phase 2a matters;
 - **The Crown:** these clauses include provision for Crown land and the Crown Estate; and
 - **Interpretation:** the interpretation clause lists key definitions used in the Bill.
- 2.5. The remainder of this paper sets out the principal provisions of the Bill listed under 2.4 in greater detail.

3. The Bill

- 3.1. Because Phase 2a is a part of the wider high speed rail network there are also provisions in the High Speed Rail (London – West Midlands) Act 2017 (the Phase One Act) which will apply to Phase 2a. This includes the provision in the Phase One Act enabling the Secretary of State to make grants for affected businesses and communities.
- 3.2. Many of the Bill provisions are powers, they authorise someone (generally the Secretary of State or the nominated undertaker) to do something in connection with the construction of Phase 2a. They are explained briefly in this information paper but a fuller explanation of the principal Bill powers is in Information Paper B9: Introduction to hybrid Bill Powers.
- 3.3. Readers wishing to determine the application and effect of these provisions in specific circumstances should consult the Bill itself and seek appropriate legal advice where necessary.
- 3.4. The Bill can be viewed on the UK Parliament website under the title 'High Speed Rail (West Midlands – Crewe) Bill' at: www.services.parliament.uk/Bills

4. Works – Clauses 1 to 3 and Schedules 1 to 4

- 4.1. Clauses 1 and 2 of the Bill authorise the works required to construct and maintain Phase 2a and other connected works. Schedule 1 to the Bill lists the specific works which are authorised under clause 1: these are known as the scheduled works. The scheduled works comprise the railway works, highway works, bridges, watercourse diversions and major utility works. Other works of the kinds identified in clause 2 and Schedules 2 and 3 may also be carried out. These are commonly known as ancillary works.

- 4.2. Clause 3 relates to highways including access, interference, construction and maintenance. These works are set out in Schedule 4 of the Bill.
- 4.3. Further information on the works powers can be found in Information Paper B9: Introduction to hybrid Bill Powers.

5. Deposited plans and sections – Clauses 53 and 54

- 5.1. Plans and sections showing the Phase 2a works are deposited in Parliament, and are therefore referred to as the deposited plans and sections. As is standard for infrastructure projects, they show the centreline of the scheduled works and the area within which the scheduled works can deviate from the centreline, otherwise known as the 'limits of deviation'.
- 5.2. The plans also show the land which can be acquired or used under the Bill. This land is the land enclosed within the 'limits of land to be acquired or used', often referred to as the LLAU. The following paragraphs contain further information on why and how land can be acquired or used.
- 5.3. Many of the provisions of the Bill refer to the Act limits. Land within the Act limits is comprised of land within the limits of deviation and the limits of land acquired or used.
- 5.4. For more information on these plans, please see Information Paper B3: Limits on Parliamentary plans.

6. Compulsory acquisition of land – Clauses 4 to 9

- 6.1. The Bill contains powers for the Secretary of State to compulsorily acquire land or rights over land on a permanent basis which, among other things, enables the works to be carried out.
- 6.2. The power to compulsorily acquire land in clause 4 applies to land within the Act limits which is required for Phase 2a purposes. It includes the power to acquire easements (clause 5), airspace (clause 6), subsoil (clause 7) as well as other rights. Clause 9 provides that the power to acquire land under these powers terminates after a specified period (time limits are discussed in further detail in Information Paper B8: Time limits in the Bill). Schedules 6 to 13 provide further detail on acquisition of land and rights over land.
- 6.3. Information Paper B9: Introduction to hybrid Bill Powers contains further information on these provisions.

7. Extinction and exclusion of rights over land – Clauses 10 to 12

- 7.1. Under clause 10 and Schedule 14 existing private and other rights over certain land, including land within the Act limits held for Phase 2a purposes, will be extinguished. This means, for example, that where there is a private right of access over land within the Act limits held for Phase 2a purposes, that right of

access will be lost. The acquisition of new rights of way will also be excluded under clause 12.

- 7.2. Clause 11 provides for the extinction of rights of statutory undertakers, such as utilities companies.

8. Temporary possession of land and use of land – Clauses 13 to 16 and Schedules 5 and 16

- 8.1. In many cases, land will be needed on a temporary rather than a permanent basis. Land required for the line of the railway itself will be required permanently, but land required for temporary construction sites may not, and so the Bill provides that the nominated undertaker can take temporary possession of land. Schedule 16 identifies land over which temporary possession may be taken under clause 13. For construction of the works possession can be taken of land in Schedule 16 and land within the Act limits. For maintenance of the works possession can be taken of land within the Act limits and within 20 metres of the work requiring maintenance.
- 8.2. Clauses 14 to 16 set out further provisions relating to the use of roads and restrictions on land use. The Bill contains various provisions relating to compensation where compulsory powers are exercised. Further information on compensation can be found in the C series Information Papers.

9. Planning – Clauses 17 to 20 and Schedule 17

- 9.1. The Bill grants what is termed as 'deemed' planning permission, similar to an outline planning consent, for development authorised by the Bill. For development that is not part of the scheduled works, planning permission is deemed to be granted only where it is:
- not likely to have significant effects on the environment;
 - exempt development under the Environmental Impact Assessment Regulations; or
 - covered by the HS2 Environmental Statement.
- 9.2. There is a requirement that certain details are approved by the local planning authority. This is achieved through conditions imposed on the deemed planning permission. These conditions are set out in Schedule 17 to the Bill.
- 9.3. Local planning authorities can sign up to the Planning Memorandum. If local authorities opt to sign up to this they will have a wide range of controls over the detailed design of permanent structures such as stations and viaducts, and will also have an enhanced role in relation to certain enforcement and construction matters. These authorities are referred to as 'qualifying authorities'. Those who do not sign up to the Planning Memorandum are referred to as 'non-qualifying authorities' and will be able to approve the detailed design of permanent structures but will have a more restricted role in the approval of construction

matters. A draft Planning Memorandum is available to view as part of the EMRs on the HS2 website.

- 9.4. Further information on the planning regime can be found in Information Paper B2: Main provisions of the planning regime.

10. Deregulation – Clauses 21 to 33

- 10.1. The deregulation provisions of the Bill modify or disapply legislation relating to a number of matters, including listed buildings, trees, and lorries.
- 10.2. Further details of disapplication and modifications can be found in Information Paper B4: Disapplication of legislation.

11. Railway matters – Clauses 34 to 39

- 11.1. The Bill contains provisions which regulate how Phase 2a will integrate with the existing infrastructure and regulatory regime.
- 11.2. Further information on the powers relating to existing infrastructure is contained in Information Paper B7: Railway powers in the hybrid Bill.

12. Nominated undertaker – Clause 41

- 12.1. This provides the power for the Secretary of State to nominate a 'nominated undertaker' to carry out some or all of the works authorised by the Bill. As explained in the introduction, there may be more than one nominated undertaker.

13. Protection for Statutory undertakers and other bodies – Clauses 4 to 44 and Schedule 32

- 13.1. The Bill provides that the nominated undertaker may carry out works affecting infrastructure, apparatus or other facilities or land which are the responsibility of various statutory undertakers such as utilities companies or statutory authorities such as highway authorities. To protect the interests of these bodies the Bill includes, at Schedule 32, protective provisions which describe the processes that must be followed prior to implementing such works.
- 13.2. In general, the protective provisions require the nominated undertaker to engage with these bodies during the design of the works, to obtain the necessary agreement and approvals from them, and then to carry out the works in the manner approved.
- 13.3. The requirements of the schedule may be superseded by separate agreements reached with individual undertakers. These will be included in a Register of Undertakings and Assurances further details of which can be found in Information Paper B5: Compliance with undertakings and assurances.
- 13.4. In clause 44 the Bill applies certain agreements entered into in relation to Phase One Act to this Bill.

14. Reinstatement and environmental works – Clauses 45 to 48

- 14.1. These provisions include powers to carry out reinstatement works and compulsorily purchase land for relocation of undertakings that are displaced as a result of the exercise of powers under the Bill.

15. Further high speed rail works – Clause 49

- 15.1. If an order for further high speed rail works is applied for under the Transport and Works Act 1992 (a TWA Order) and the TWA Order relates to a relevant Phase 2a matter, this provision allows provisions in the Bill to be applied to that TWA Order.

16. The Crown – Clause 50 to 52

- 16.1. Crown land includes land that forms part of the Crown Estate, land owned by the Queen in a private capacity, and government property. These clauses permit authorised works to be carried out by the nominated undertaker in relation to Crown land with the consent of the relevant Crown authority as well as removing restrictions on disposal in relation to Crown land.

17. Interpretation – Clause 61

- 17.1. Clause 61 is the interpretation clause of the Bill which contains definitions of key terms. It includes the definition of Act limits, limits of deviation and the limits of land to be acquired and used, which are explained above.

18. More information

- 18.1. More detail on the Bill and related documents can be found at: www.gov.uk/HS2