

Second report from Gareth Epps, interim independent HS2 Construction Commissioner

This is the second report I have submitted to HS2 Ltd's Chief Executive and Managing Director [Phase One] since my appointment in July 2016. In it I report on the issues raised in Autumn 2016 and comment on matters raised in recent months which may have an impact on future numbers of complaints during Phase One. I will summarise its findings in a letter to MPs and principal local authorities along the route.

In late February Royal Assent was granted for the HS2 (Phase One) Act. This formally triggered the publication of the Environmental Minimum Requirements that will govern construction, including the Code of Construction Practice (CoCP) and the Community Engagement Framework. Three sets of Early Works Contractors now must follow these requirements and prepare to set out how they will engage with communities while carrying out a range of works.

I welcome the arrival in December 2016 of Julie King as Community Engagement Director. The level of the appointment ensures there is sufficient authority to implement any necessary changes. A significant range of issues faced Julie on her arrival, and I am starting to see progress on a number of those relevant to my role. I am particularly pleased that Julie has prioritised addressing the challenges to HS2 Ltd's handling of complaints, both in terms of historical disquiet and the need to make systems and processes fit for a construction project of its scale.

Activities:

- I have continued to meet line of route MPs and local authorities, and met the Minister, Andrew Jones MP.
- I attended the December and January Planning Forum meetings (and the Forum's Environmental Health sub-group in late March). These are useful opportunities to discuss relevant issues with local government officers engaged with HS2 on a day-to-day basis.
- I have dealt with eight enquiries and potential complaints from members of the public via my website, most of which were redirected to HS2 Ltd. for answering. The speed of response by HS2 Ltd continues to be variable.
- I work closely with the HS2 Residents' Commissioner, Deborah Fazan, meeting her regularly; we both met the Department for Transport's Independent Complaints Assessors [ICAs] in January.
- I have attended more community-focused meetings along the route from Euston to Warwickshire, and attended a workshop run by Chiltern and South Bucks councils in March. I have observed HS2 Ltd community engagement events. I look forward to hearing the views of communities elsewhere on the route in the coming months.
- I continue to have a number of briefings on specific issues with HS2 Ltd personnel, and report back with recommendations where appropriate.
- I have made initial contact with the community engagement leads for the three contractors charged with delivering early works. They will need to understand the Commissioner's role and public expectation on them to answer a wide range of practical questions relating to construction will be high.
- I have met other projects about how construction complaints are handled.
- I have drafted publicity materials for the Construction Commissioner's role including a leaflet that describes how construction complaints can be examined by my office; publication is currently on hold pending the approval of HS2 Ltd's revised complaints handling process.

Report of Ian Bynoe

The Residents' Commissioner and I have discussed the independent report by Ian Bynoe last year, and she has reflected in some detail on how she considers progress against his recommendations to have been made. I do not wish to duplicate the points she has made in her report, but from a perspective of seeking an improved complaints handling process for construction I would emphasise the following:

- A dedicated lead contact for all directorates within HS2 Ltd is needed to facilitate punctual responses to complaints and correspondence. Performance should be measured by directorate to identify and examine any areas of the project that are slow to respond, as with contractors.
- The distinction between 'informal' and 'formal' complaints is unhelpful; a complaint is a complaint, and there is a risk that 'informal' complaints will not be properly recorded. I have not seen evidence that informal complaints are recorded centrally.
- There is an urgent need to clarify what mechanisms for dialogue will exist between communities along the route and HS2 Ltd once these are agreed. These do not currently exist among much of the route, for a variety of historical reasons. The experience of the project in Euston demonstrates that dialogue is needed well in advance of construction to provide reassurance to communities of how construction will be carried out. By contrast, the external events being held by HS2 Ltd appear well-organised and help meet the significant appetite for information about construction impacts along the route.
- HS2 Ltd's corporate values and existing commitments need greater promotion so they are prominent in the minds of all staff as well as among the supply chain, in particular for the early works where public contact may be as frequent from subcontractors as from the named principal contractor or joint venture. Residents being contacted will see all concerned as being 'from HS2' and will judge HS2 Ltd by the actions of those representing it.
- Regardless of whether the .gov.uk website is retained (and my view is that it is wholly unsuitable for a construction project), additional digital information platforms is required, building on the experience in Euston and with a particular focus on making it as easy as possible to find out what is happening in their neighbourhood, and when.
- HS2 Ltd needs to republish its complaints procedure leaflet to take account of changes needed for construction, including awareness of the Construction Commissioner's role and their contact details.

Euston and noise:

The subject of noise insulation provision at Euston, and delays in communicating this programme, continues to command much attention and time. The success or otherwise of this programme has the potential to prevent a substantial number of avoidable complaints, and it will have a significant bearing on the quality of life of well over 1,000 households nearest to the works. HS2 Ltd has been focusing on potential re-engineering of the design in the Euston area that may significantly mitigate the environmental impacts there; I am pleased to note that senior leadership has now taken direct responsibility for the issue; has now agreed to provide more information and has increased the project management dedicated to this programme.

The significant omission to date is communication to those affected and the wider population at large. I highlighted the need for this to relieve ill-feeling in the community back in November, and am at a loss to understand why this communication has not taken place some three months later. Very little non-technical information about the noise insulation process is available to the public;

HS2 falls some way short of best practice for a major project in this way at present. On a more positive note, work is taking place with LB Camden and HS2's contractors to identify any vulnerable residents who may have special circumstances that are affected by construction. HS2 Ltd is starting to produce a suite of very helpful documents for use in communication with groups with protected equality characteristics. I hope to be able to report on further progress in identifying the needs of vulnerable people along the whole of the route.

Engagement with communities along the route

Where dialogue is taking place, the meetings and events I am attending are broadly constructive and HS2 Ltd explains as best it can how the project will be affecting residents now that Royal Assent has been reached. The topic of complaints handling continues to be of interest, and historic concerns are reported about a lack of engagement, at times a poor or slow response to answering questions, and other characteristics that seem to stem from an adversarial Hybrid Bill process that has been unpleasant for those petitioning against the Bill to go through. The presence of contractors at meetings like these will help to focus discussion onto the effects of construction work. Updated information about complaints will need to be made available.

Euston community meetings appear to be burdened by the need to communicate a huge amount of (at times) complex information not presented with AV aids resulting in pressure of time. The meetings are helpful but there is something of a feeling that HS2 Ltd could be better prepared for these meetings.

Feedback from residents elsewhere on the Phase 1 route suggests the situation at Euston is not unique. While HS2 Ltd's engagement with whole communities prior to Royal Assent has been limited and patchy, I have been made aware of presentations that have given rise to some confusion about complaints handling in particular [and have resulted in enquiries to my office]. This may be most effectively addressed by the wider rolling out of engagement events and meetings.

Updating complaints processes

In late 2016 I recommended to HS2 Ltd that it prioritises upgrading its complaints handling processes and the related infrastructure well in advance of early works construction. Progress on this important work had been very slow but is now gathering pace; it will take time to complete. I am starting to see signs that the new process, which is still in development, addresses both historical concerns and the need to respond at the speed necessary for construction. I have had constructive discussions about how the sorts of issues that arise from major projects might be best addressed.

This includes the problems arising from complaints being sent to other organisations without involving the HS2 Helpline, and the risks of complainants becoming weary of addressing complaints to the helpline on more than one occasion.

Part of the work that HS2 Ltd needs to complete prior to construction is to be able to produce statistics about the location and nature of construction complaints. Complaints regarding ground investigation works have been few, but they do not appear to be recorded in a manner that facilitates analysis. A small cluster of complaints regarding ground investigation works in Warwickshire has been reviewed with HS2; these appear to have been swiftly resolved, but they have highlighted that locally-resolved complaints need to be recorded as such, in part to demonstrate any lessons learned. By contrast, at Euston concerns have been raised that HS2's and Network Rail's helplines may not be handling complaints about works in a co-ordinated manner; whilst I have asked the community for any examples of this and offered support, no such examples have come to my attention to date. Timing of the information rounds for Phase 2 in parallel with early Phase 1 construction has the potential to hinder speedy resolution of Phase 1 construction complaints. I am reviewing how complainants will be notified they can ask me to pursue an

unresolved complaint, and have made suggestions about other circumstances that might trigger an investigation, such as a complaint HS2 Ltd has been unable to resolve within specified timescales.

Small Claims Scheme

Following Royal Assent, progress is now being made on the Small Claims Scheme. I look forward to receiving more updates on this important requirement.

Budget, office and permanent arrangements

Having set out expected requirements for the period until the start of construction, I continue to await details of governance, budgeting and staffing for the Commissioner's office. Decision-making in this regard remains a matter for HS2 Ltd; I have reminded Directors that this needs to be in place by the start of construction.

Summary of recommendations

1. Implement independent governance arrangements including budget in sufficient time for the Commissioner's permanent office to be functioning in good time for the start of construction.
2. Clarify how Special Cases for noise mitigation will be handled and communicate how noise insulation will be delivered to affected communities
3. Ensure that steps are in place to identify vulnerable people and those with special circumstances along the whole route
4. Set up web systems separate from the .gov.uk domain before the start of construction to communicate works information
5. Finalise the revision of the complaints process and implement the Small Claims Scheme and test them to ensure robustness, in part to ensure the role of the Construction Commissioner's office can be publicised
6. Provide summary information on construction complaints (including "informal complaints") to enable effective monitoring
7. Continue to pursue and close out the remaining work in response to Ian Bynoe's report.

Gareth Epps, 17/4/2017