



HIGH SPEED TWO PHASE ONE INFORMATION PAPER

C14: SITE ACCESS FOR SURVEYS

This paper outlines arrangements for access to private land for the undertaking of ecological, engineering and other types of survey to inform the development of hybrid Bill(s) for HS2 and the design and construction of the HS2 scheme.

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 Bill for Phase One of the scheme which is now enacted. Although the contents were maintained and updated as considered appropriate during the passage of the Bill (including shortly prior to the enactment of the Bill in February 2017) the contents are now historic and are no longer maintained.

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.

The Helpdesk can be reached at:

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1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south rail network. The proposal is being taken forward in two phases: Phase One will connect London with Birmingham and the West Midlands and Phase Two will extend the route to Manchester, Leeds and beyond.
- 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 November 2013, HS2 Ltd deposited a hybrid Bill¹ with Parliament to seek powers for the construction and operation of Phase One of HS2 (sometimes referred to as 'the Proposed Scheme'). The Bill is the culmination of nearly six years of work, including an Environmental Impact Assessment (EIA), the results of which were reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs), which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.4. The Bill is being promoted through Parliament by the Secretary of State for Transport (the 'Promoter'). The Secretary of State will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill.
- 1.5. This body is known as the 'nominated undertaker'. There may well be more than one nominated undertaker – for example, HS2 Ltd could become the nominated undertaker for the main railway works, while Network Rail could become the nominated undertaker for works to an existing station such as Euston. But whoever they are, all nominated undertakers will be bound by the obligations contained in the Bill and the policies established in the EMRs.
- 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 project have been reached.

2. Purpose

- 2.1. This information paper outlines arrangements for access to private land for the undertaking of ecological, engineering and other types of survey to inform the development of hybrid Bill(s) for further phases of HS2 and the design and

¹The High Speed Rail (London - West Midlands) Bill, hereafter 'the Bill'.

construction of the Proposed Scheme. It explains the different approaches that will apply both before and after the date on which the Bill achieves Royal Assent, when certain legal powers will become available.

3. Background

- 3.1. At each stage of the planning, design and implementation of HS2, HS2 Ltd and its agents, contractors and representatives require access to private land to undertake surveys and investigations for a variety of purposes, including but not limited to:
- environmental, wildlife and other surveys to support the preparation of Environmental Statements and information to support the preparation of hybrid Bills;
 - farm impact and business impact assessments for the hybrid Bill(s);
 - geological investigations and intrusive site investigations (involving boreholes and trial pits) to inform detailed design and engineering; and
 - archaeological and other site investigations.
- 3.2. Since early 2012, HS2 Ltd has implemented an approach to site access for surveys in Phase One of HS2 that involves the offer of an early access agreement ('EAA') and payment of licence and survey fees, in line with standard terms negotiated and endorsed by the Country Land and Business Association and the National Farmers Union. This form of agreement has been widely accepted by many landowners.
- 3.3. In 2015, the standard EAA terms were reviewed and updated and also extended to introduce new forms of ground investigation ('GI') access licence templates.
- 3.4. Royal Assent to the Bill will provide HS2 Ltd with powers to enter land for surveys, subject to conditions, under Clauses 54 and 55 and Schedule 2 of the Bill. These powers will apply to land affected by Phase Two as well as Phase One of HS2. This information paper sets out HS2 Ltd.'s approach to seeking access to private land both before and after the date on which the Bill achieves Royal Assent.

4. Access to and use of land before Royal Assent

- 4.1. Arrangements to enter land for surveys prior to Royal Assent for either Phase One or Phase Two will be negotiated with the landowner, whose consent will be required.
- 4.2. HS2 Ltd will continue to seek to negotiate such site access licences with landowners based on the established standard licence templates (the EAA for environmental surveys and the GI Access Licences for GI surveys) and payment structures.

5. Access to and use of land after Royal Assent

- 5.1. Royal Assent to the Phase One hybrid Bill will bring into law Clauses 53 and 54 (general rights of entry), and Schedule 2 Part 1 (which includes authority to survey and investigate land). Clauses 54 and 55 could apply anywhere in Great Britain where a high speed railway is proposed to be promoted via a hybrid Bill (such as in Phase Two), whereas Schedule 2 only applies to land within or affected by Phase One. HS2 Ltd will be able to rely upon these powers and will no longer rely on negotiation alone to obtain access to land for surveys.

Phase One - access to land pursuant to Schedule 2 Part 1

- 5.2. Schedule 2 Part 1 will apply to Phase One surveys/works only. It gives powers for survey or investigation of land “within Act limits or which may be affected by the works authorised by [the] Act”, including trial holes and ecological or archaeological investigations, and placing/removal of apparatus, subject to at least seven days’ notice. There is no requirement for advance negotiations or any form of site access licence.
- 5.3. Part 2 of Schedule 2 requires that compensation be paid for any loss which an owner or occupier of the building or land in relation to which the powers contained in Part 1 of Schedule 2 are exercised may suffer by reason of exercise of the power. Any dispute as to compensation shall be determined in accordance with the principles set out in Part 1 of the Land Compensation Act 1961.

Phase One – approach following Royal Assent

- 5.4. HS2 Ltd will in all cases aim for early meaningful communication with land owners where access for surveys will be required. The Nominated Undertaker will rely on Schedule 2 Part 1 but will endeavour wherever reasonably practicable to give a landowner or its appointed agent (and all occupiers) more than the minimum seven days’ written notice of its intention to take access to land for the purpose of survey required in the Bill, and will make the landowner/agent aware of its rights to claim for losses or damage under Schedule 2.
- 5.5. Where the land is subject to an existing site access licence as a result of negotiations before Royal Assent, the terms of the licence (including any entitlement to financial payments) will continue until its expiry or termination, after which time, if access is still required, notice under Schedule 2 above will be given.

Phase Two – access to land pursuant to Clauses 54 and 55 of the Bill

- 5.6. These Clauses give powers in connection with a future hybrid Bill to authorise works for a “high speed railway line in Great Britain” to enter any land that is “within 500 metres of the proposed route of the line” to survey the land (including boreholes and taking samples) or to facilitate compliance with EU environmental protection legislation. This, therefore, includes the proposed Phase Two route. It also covers any other land that may be proposed for a high

speed rail scheme and which is not within the Bill limits for Phase One (where Schedule 2 will apply – see above).

- 5.7. All reasonable attempts must be made to obtain consent to enter the land before the powers can be exercised. A warrant from a justice of the peace (in the case of residential land) or written authority from the Secretary of State (in the case of any other land) will be required. In exercising a warrant or authorisation under clause 54, at least 14 days' notice of intended entry will be given to the occupier.
- 5.8. If entry to land is taken using the powers in Section 54, compensation is payable for damage to land or other property as a result of the exercise of rights of entry and any dispute as to the amount is to be settled in accordance with Part 1 of the Land Compensation Act 1961.
- 5.9. Although these powers would be available following Royal Assent to the Phase One Bill, HS2 Ltd intends to continue to negotiate access for surveys on land relevant to Phase Two by agreement. Therefore, it will continue to offer the same licence and terms that would be applied in the situation described in paragraph 4 above. HS2 Ltd will continue to seek to negotiate reasonable site access licences with landowners based on the current established standard site access licence templates (the EAA for environmental surveys and the GI Access Licences for GI surveys) and payment structures.
- 5.10. HS2 Ltd considers that making this offer will demonstrate that it has made all reasonable attempts to gain the landowner's consent.
- 5.11. However, if a landowner refuses entry or does not respond to a request to enter into a licence by agreement within 28 days of being requested in writing to do so, HS2 Ltd will seek the appropriate warrant or authority to exercise the powers in Sections 54 and 55.

6. More information

- 6.1. More detail on the Bill and related documents can be found at www.gov.uk/HS2
- 6.2. Any enquiries about the terms and conditions of the standard access licences offered by HS2 Ltd should be sent:
by email to: HS2enquiries@hs2.org.uk
or by post to:
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