

hs2 Property & Compensation Consultation

– The Response from Michael Fabricant MP

1. What are your views on the proposed advanced purchase process outlined above?

I welcome the move to accept blight notices from everyone and the proposal to waive the requirement for householders to show they have made reasonable endeavours to sell their property on the open market.

My concerns on the advanced purchase scheme focus on definitions and pragmatism.

The scope of the safeguarded area

Given High Speed 2 legislation has yet to progress through the House of Commons, it is possible that the route could change. I expect the Department for Transport and High Speed 2 Ltd to confirm that if the route does change, they will write immediately to affected property owners to inform them that their properties are now within the safeguarded area.

As well as construction sites, I would like to understand the impact of changes in the size of the safeguarded area, through sidings and electrical transformer stations. In particular, I want to have more detail on whether changes in the safeguarded area change the size of the Voluntary Purchase Zone (VPZ).

I am also concerned that the safeguarded area does appear to be fixed at 60 metres either side of the railway. Given that this could mean a property in a street is in the safeguarded area, but an identical property neighbouring it could be in the VPZ, I am calling for the Government to be flexible on the scope of the various zones and take into account this kind of issue.

Definitions

The Government is planning to accept Blight notices from residential owner-occupiers, owner-occupiers of small business premises and owner-occupiers of small agricultural units. The category excludes second homes, rental properties and larger businesses.

For many people, rental properties can be an alternative source of income and act as a pension fund. Some might have invested in property instead of a corporate pension. To exclude these does appear to punish hard-working people who have done the right thing by saving for their future.

I know the Government plans to accept Blight Notices from people whose properties are only partially within the safeguarded area. I call, however, for greater clarity over its definition of 'partially'. This would give greater certainty to homeowners.

The proposals exclude properties above tunnels: I ask the Government to change this position given fears householders may have in this area.

The Government is proposing to meet 'reasonable moving costs' and provide a home-loss payment of 10 per cent. It needs to be clear whether there is a limit to the moving costs payment and whether there is flexibility around the home-loss payment given its cap at 10 per cent of the property value to a maximum £47,000. There needs to be such flexibility.

Some demolished houses may currently be in the Green Belt. Home-owners would expect the planning rules to be relaxed so that their new properties are built in a comparable area. I know that others have raised this with the Department for Communities and Local Government. I look forward to the Government giving its response to this proposal.

2. What are your views on the proposed voluntary purchase zone for rural areas outlined above?

I welcome the additional Voluntary Purchase Zone (VPZ) either side of the safeguarded area. However, I have concerns with the Government's proposals.

Scope of Voluntary Purchase Zone

The VPZ is fixed from 60 metres either side of the line in rural areas with no VPZ in urban areas.

I ask for clarification on what constitutes a 'rural area'. I am concerned the VPZ excludes urban areas on cost grounds when the impact could be significant for some property owners.

Construction sites along the safeguarded area could mean that the VPZ is smaller in some areas than 60 metres. I expect the Government to confirm that the VPZ will extend 60 metres beyond the safeguarded area, irrespective of the size of the safeguarded area.

As well as construction sites, I would like to understand the impact that sidings and electrical transformer stations, placed at the side of the main railway line, will have both on the size of the safeguarded area and the VPZ. There needs to be similar protection for the owners of neighbouring properties as for those adjacent to the line.

The VPZ appears, also, to take no account of local topography, the impact of noise and vibration, and how the operation of the railway will vary by time of day. This needs to be taken into account.

The fixed nature of the zone could mean a property in a specific street is in the VPZ but an identical neighbouring property could be in the Long Term Hardship Scheme area and therefore receive different compensation. The scheme needs to be flexible to accommodate different circumstances.

Definitions

As with the safeguarded area, the VPZ applies to residential owner-occupiers, owner-occupiers of small business premises and owner-occupiers of small agricultural units. The category excludes second homes, rental properties and larger businesses.

Rental properties can be an alternative source of income and act as a future pension fund. To exclude these could punish hard-working people who have done the right thing by saving for their future. They must be included.

The definition excludes larger businesses and I have concerns around jobs and growth as a result.

The Government states it will accept applications from people whose properties are only partially within the VPZ. There should be greater clarity over its definition of 'partially'.

Compensation

I am concerned that unlike the safeguarded area, the VPZ excludes payment of 'reasonable moving costs' and the home-loss payment of 10 per cent. Those choosing to move from the VPZ should be reimbursed the full cost of moving to an equivalent unblighted property including all reasonable moving costs and fees.

Valuations

I welcome the Government's proposal to ensure that properties within the VPZ will receive two valuations on their unblighted value. As property markets vary so much from area to area, the Government should use estate agents with local knowledge of their areas to ensure that homeowners get an accurate price for their house.

Changing route

The Government points out that the precise size of the VPZ could change as the exact route is amended. It appears that the Government believes that it should be home-owners who have to show that they are now within the VPZ. The Government should take this responsibility.

Timing

The VPZ will remain in operation for compensation until one year after the opening of HS2. Given the scale of this project, the VPZ should remain in operation for a longer period – at least 36 months after the line becomes operational.

3. What are your views on the proposals for a sale and rent back scheme?

The sale and rent back scheme definitions for eligible properties are narrow. I have concerns the scheme only applies to the safeguarded area rather than both that and the VPZ.

Definition

It is unreasonable that only owner occupiers are included in the sale and rent back scheme as it should include second homes for the reasons I outlined earlier.

It is also questionable whether business properties should be excluded and I raise the impact this could have on jobs and growth in areas close to HS2.

On the sale and rent back scheme, the Government should provide clarity around the rent levels it would expect tenants to pay, and confirm that these would be market rents which reflect the impact of HS2 on local property.

The sale and rent back scheme would involve assessing the unblighted market value of the property. The Government should confirm that this would involve estate agents with local market knowledge. The consultation question also refers to market rent – similarly, this rent level should be established by local letting agents and reflect the impact of HS2 on rental values.

The Government should clarify the notice period it would expect to use in these tenancy agreements.

4. What are your views on the proposed approach to the application of the hardship criterion for the long term hardship scheme for Phase 1?

I am concerned with the definitions used in the long term hardship scheme and its operation. My primary reservation is the Government's decision to rule out the property bond scheme.

Property bond

I recognise that the Government has ruled out a property bond on the basis of what it views as practicality and that it has not been used before in infrastructure projects of this size. The Government argues that it could place an additional burden on the taxpayer, might exacerbate blight and lead to the Government owning so many properties that it could unsettle the balance of communities and lower home-ownership.

Despite this, the property bond scheme continues to receive widespread support: from the Council of Mortgage Lenders, the National Association of Estate Agents, the National Farmers' Union, and the High Speed 2 Action Alliance among others. Also, as the consultation paper itself admits, the private sector has devised such a scheme in the past for proposed new runways at Heathrow and Stansted, and Central Railways in relation to a new freight railway. I therefore do not accept that the scheme is impractical.

HS2 Action Alliance, in particular, believes that such a scheme would provide stability to the property market and could act as an indemnity scheme for property owners. A property bond could support local communities and local economies and ensure that High Speed 2 does not adversely affect those people who will not directly benefit from the project.

Given the interest in this scheme, the reassurance it can give to homeowners and the support it could provide to local communities, I ask for a commitment from the Government to reconsider its policy on the property bond and to explain in greater detail why it is against this important contribution to the High Speed 2.

Property type

In terms of property type, I am again concerned that second home and rental properties are excluded along with business premises. The scheme is focused solely on main residences and should not be so.

Location of property

There is no limit to the size of the area impacted by the hardship scheme and the Government's comments on topography. I would suggest, however, that if the route changes, it is the Government's responsibility to notify people of the availability of the hardship scheme.

Effort to sell

The Government is asking that any eligible properties have to be on the market for twelve months and not had an offer within 15 per cent of its un-blighted value. I believe both criteria should be changed as (a) it is rare for offers within 15 per cent of an asking price to be accepted (b) personal circumstances, such as pregnancy, redundancy, job relocation or death, might mean a property owner has to sell far more quickly. I call on the Government to show more flexibility in this area in particular with the 85 per cent threshold moving to 95 per cent.

The Government is suggesting that property owners have to demonstrate that HS2 is the cause for being unable to sell their property rather than any other factor. This places the onus too much on the property owner to prove the reason for their property not being sold.

No prior knowledge

The Government states that applicants to the hardship scheme will not be eligible if at the time they bought their property they could have been expected to be aware of the proposals for HS2. Ministers have set the date as January 2010.

I believe the Government should change the date for eligibility to January 2012 rather than the original announcement date of March 2010 because it was only in 2012 that the current Government gave formal approval to a high speed rail network.

Hardship

My constituents have stated they believe it is wrong for people to need to prove hardship before qualifying for compensation. I believe that anyone suffering significant financial loss as a result of HS2 should be entitled to compensation. There are many people who, over the next ten years would expect to downsize their property as they grow older and their circumstances evolve. Under current proposals they would not receive any compensation for loss of value from HS2 in this process unless they can demonstrate real hardship. The Government must reconsider these criteria.

Operation

I believe that it is too inflexible to insist that property owners should meet all five of the Government's criteria to be eligible for the long term hardship scheme. There appears to be no flexibility around this.

Again, the Government should use estate agents with local market knowledge to assess property values to ensure that constituents receive a fair and accurate price for their property. I believe it fair, however, that property owners have six months to decide on an offer they receive.

Valuation

Loss of property value should feature in the process. At the moment, the Government's proposals focus on those who want to move. There will be other people who will face very real loss.

An example are those people who want to remortgage their property yet when their house is re-valued, discover that their property is worth less than they originally thought, caused directly by HS2. This could mean that they face a more expensive mortgage. HS2 Action Alliance points out a case where a property owner received a zero valuation from Woolwich for their house in Turweston because of HS2. The Government should consider this issue.

Wider communities

I call for some consideration to compensate people or communities for the long term construction blight that will affect their lives for years as HS2 is built.

5. What are your views on the proposed process for the operation of the long term hardship scheme for Phase 1?

The Government proposes that the panel to judge hardship applicants will include two independent members and one senior civil service member. Further clarification, however, is needed that the overall size of the panel is limited to three.

It should be clear how changes to the panel's membership would take place. For example, if an independent panel member resigned, the Department should clarify how this would be handled.

The Government could confirm the rules by which panel decisions are made, whether they require unanimity or a majority.

It would be helpful if the Department for Transport outlined the appeals process that applicants could take if their case was rejected, and the involvement of the Ombudsman or Ministers in decisions. This should be published along with confirmation on whether cases are ultimately approved by either the Minister of State for Rail or the Secretary of State for Transport.

The use of photographs by the panel is essential but I would echo parliamentary colleagues' call for the use of photographs with the railway line, topographical changes or construction sites, superimposed so that panellists could judge accurately the impact on local property. I suggest also that as well as aerial maps, street photographs are considered.

I disagree with the decision to rule out site visits and personal appearances and believe that the Government should reconsider its view on this.

No guidance has been given within the proposals on the length of time for which this scheme will run. It should continue for at least three years after the line has been operational to give time for the full impact of property blight to be assessed.

6. What are your views on the Government's proposals to restore confidence in properties above tunnels?

I welcome the Government's decision to collect the evidence based on the impact of tunnelling on properties and would request that this is placed in the public domain. I suggest that HS2 Ltd's work could be verified by an independent expert so that property owners have confidence in the company's claims.

Currently the Department is suggesting that second surveys on properties whose owners think they have been affected by tunnelling can be requested within two years of the railway opening to the public. I request that this is open-ended. As we know from the aftermath of coal mining, subsidence can occur long after tunnel construction.

The Department for Transport should also confirm whether there will be a time limit imposed for claims as a result of tunnel construction.

Compensation, where required, should not be limited to the cost of repairs but should, above a certain level, automatically trigger full compensation provisions as if the property were in the Voluntary Purchase Zone.

7. What are your views on how the Government should work with local authorities, housing associations and affected tenants to agree a joint strategy to replace any lost social rented housing?

I welcome the Government's recognition that HS2 will impact social housing. I would appreciate clarification that the Government will indeed pay for replacement social housing where appropriate.