

Minutes of Portfolio Holder (Environment) Decision Making Session held on 14 May 2010

Present: Decision Maker: Councillor Alan Cockburn (Portfolio Holder for Environment)

Other Councillors: Bob Stevens and John Whitehouse.

Members of the Public: Mr D Vaughan, Mr D Halsall, Mr Long.

Officers: Jane Pollard (Democratic Services Manager), Andy Cowan (County Planner).

1. General

(1) Member Declarations of Personal and Prejudicial Interests

None.

(2) Minutes of meeting held on 30 April 2010.

Resolved

That the minutes of the meeting held on 30 April 2010 be approved as a correct record.

2. High Speed Rail Link – Exceptional Hardship Scheme

Councillor Alan Cockburn, Cabinet Portfolio Holder for Environment, indicated that he was proposing to respond to the government as set out in the recommendations of the Supplementary report. He had received further written representations from Mr D Vaughan and Councillor John Whitehouse prior to the session., copies of which were circulated at the meeting. (A copy of those representations is annexed to these minutes). He considered that there was merit in the alternative compensation solution developed by HS2 Action Alliance and the proposed response asked government to investigate this. The session was then opened for further questions, representations on the proposed response.

Points made by those attending were

- The government should give clear reasons when deciding on the final terms of the Scheme
- Concern over the potential narrowness of scope in the EHS as proposed and the need for it to extend beyond the date when the HS2 route is confirmed
- The serious anxiety and concern that the announcement of the proposed route had caused to people in affected areas.
- There was disappointment that the government having considered similar issues in relation HS1 and 'learnt the lessons' from that had not proposed a broader solution.

- That the statutory blight scheme was very narrow and only applied to those on the 'line' and it may be 12 to 15 years before others affected just outside the statutory boundaries could make any claim.
- That both the proposed government exceptional hardship scheme and the statutory blight scheme were too narrow
- That the Scheme should also provide relief for charitable organisations and sports facilities that may be affected

Councillor Cockburn indicated that he shared many of the concerns expressed. However he did not consider it appropriate to include within the recommendations at this stage that the 'hardship scheme' should extend in time beyond the date when the HS2 route was confirmed and the statutory blight scheme came into effect. This raised much wider issues and also potentially significant funding costs. He considered it was more important at this stage to urge government to investigate the HS2 Action Alliance Scheme as well as encouraging a widening of the proposed scheme, to address those urgent cases where people are experiencing actual financial hardship now, as indicated in the recommendations.

Resolved

That, in response to its consultation, the Government be advised that the Council supports the early implementation of a Hardship Scheme which includes the following:

- (i) The government Scheme should be expanded to make it more acceptable.
- (ii) The scope of the government Scheme should be extended and the term "close vicinity" be widened and more clearly defined.
- (iii) The government Scheme should be for "hardship" and not just "exceptional hardship".
- (iv) The alternative compensation solution developed by HS2 Action Alliance should be investigated by the Government, as it appeared to have merit. There was insufficient time and resource to study the wider and fundamental implications particularly for the public sector. In the event of the Government choosing to adopt the scheme or some other alternative it should be made retrospective.
- (v) the government Scheme should be widened to include for example farms, small businesses, charitable bodies sports facilities etc.
- (vi) The Government should publish a timetable for its response to the consultation exercise on the Scheme and in making its decision about the Scheme it proposes to implement response should clearly set out the rationale and reasons for its decisions.
- (vii) The requirements to a) prove that no offer had been received within three months of a property being put on sale and b) that only losses in excess of 15%

would qualify under the scheme are unreasonable. The 3 month period is too long and the 15% should be substantially reduced.

- (viii) A panel separate from Government should be established to determine applications for compensation under the scheme.
- (ix) The consultation period for the Scheme should be extended by between fourteen and twenty-eight days to allow for Parliamentary debate.

3. Any Other Urgent Business

None.

The meeting rose at 12.35

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Portfolio Holder (Environment)

From Mr David Vaughan

Gentlemen

Like others, I have been endeavouring (by my representations at the Overview and Scrutiny meeting and in my subsequent emails to Andy Cowan copied to Cllr Doody) to ensure that some clarification is incorporated in the various minutes and reports of the Overview and Scrutiny meeting of the Council on 28th April and in the proposed WCC response on EHS which make clear the Statutory Blight provisions (SBP) and their relationship to the EHS.

The fact is that SBP have limited effect and will not redress the 'blight' (in the wider sense) already suffered by many homes (not required for the line) and their owners which descended on large parts of our Warwickshire and its communities on publication of the preferred route. The SBP are contained primarily in The Town and Country Planning Act 1990 and the Land Compensation Act 1961 and simply provide a mechanism whereby owners of land actually required for the railway may accelerate the purchase by the acquiring authority rather than to have to wait holding sterile land until the acquiring authority proceed to acquire the land by CPO in due course. In the context of HS2 the implementation of CPO would be many years hence, perhaps a decade or more, after the route has become fixed. The other SBP are under the Land Compensation Act 1973 which gives the owner of property affected by noise, vibration, dust, fumes etc and artificial lighting caused by new public works a right to apply for compensation for these depreciatory effects but claims may not be made until one year after the new works come into first use. Accordingly for the considerable number of home owners whose houses are near the proposed or chosen line there are no statutory rights to compensation until 12 months after the new works go into first use. I do not know how many such owners there are in Warwickshire but there must be many hundreds. Accordingly those owners must be expected to bear the loss of value, swingeing in some cases (my own home is estimated to have lost 50% of its value in consequence of publication on 10th March 2010) without any right to compensation until the limited rights under the 1973 Act become exercisable some 16 or 17 years hence. If the EHS is adopted, the rights under EHS come to an end when the route becomes fixed. Assuming that happens in 2011 then the loss of value must be borne for perhaps up to 16 years before the limited rights under the Land Compensation Act 1973 arise, possibly through time periods when owners would chose to sell their homes in the ordinary course or do need to sell on account of health, age, infirmity, financial or for any other reason. That individuals should be required to sustain these losses is quite unjust and contrary to the fundamental rights of individuals to the enjoyment and security of their own homes.

For these reasons I very strongly feel that the WCC should make it absolutely clear in its response to EHS that it is in itself an inadequate scheme which does not redress the limited effect of SBP and the losses of value which house owners are bearing and will continue to bear on a continuing basis. There will be those who may well not survive until the limited rights under the Land Compensation act 1973 become exercisable an that it is imperative that a proper and fair compensation scheme such as that promoted by HS2 Action Alliance is put in place urgently.

I would be most grateful if these representations can be made clear in the WCC response rather than the somewhat abstract inference that the EHS is only intended to operate until the SBP apply.

Thank you for your attention to these very real concerns.

David Vaughan

From Councillor John Whitehouse

Ahead of tomorrow's Portfolio Holder's Decision Making Session I would like to make a number of points. My own knowledge of and perceptions of the issues involved has developed further since the meeting of the Environment & Economy Overview & Scrutiny Committee, partly as a result of the correspondence we have both had from the Ladbroke Action Group, the Stoneleigh Action Group and a number of residents directly affected - for which I am grateful.

I have grouped my points under the three headings in the EHS Consultation document:-

Introduction of an Exceptional Hardship Scheme

1. Yes, a scheme should be introduced as soon as possible (subject to the point about the consultation period - see below).
2. A scheme should be continued beyond the date when the HS2 route is confirmed, recognising that the statutory blight provisions that would be triggered at that point would apply only to properties on the direct line of the route. A scheme will continue to be required to cover the much wider spread of properties affected over many years, until 12 months after the scheme is completed (in 2026?) when redress under the Land Compensation Act may be open to all affected property owners.
3. The Government should give urgent and positive consideration to the alternative compensation solution developed by the HS2 Action Alliance, the Property Blight Protection Scheme (PBPS), which WCC should recommend acceptance of - subject to a clear and workable definition of its applicability only for "major infrastructure projects undertaken for the national benefit".
4. If a PBPS is brought into law, it would replace the need for a continuing EHS, and should be applied retrospectively to the date when the EHS was introduced.

Exceptional Hardship Scheme Principles and Criteria

1. A scheme should not be restricted to residential properties, but include agricultural properties and small businesses.
2. The restriction of a scheme to cases of extreme hardship (or any level of hardship) is unjust. It should apply in all cases where property owners have a justifiable reason to sell, and can demonstrate that the HS2 preferred route announcement has stopped them doing so without financial penalty.
3. The criterion of "on or in the close vicinity of the preferred route" is not defined, and its application could therefore be quite arbitrary. For example, is it worse to be within 100m of a cutting or within 200m of a raised viaduct? Without the environmental assessment work having been done yet it is impossible to say.

4. The possible route variation in the Stoneleigh area could have implications for the preferred route both sides of it, so extending the potential area of property blight until this question is resolved. The EHS should take specific account of this.
5. It is unfair to exclude all tunnelled sections of the route when the environmental assessment work has not yet been done.
6. The definitions of circumstances of "pressing need" listed in para 2.14 of the Proposals should be considered as illustrative but not exclusive.
7. The application of a 15% threshold of financial disadvantage is arbitrary and unjust.
8. As currently defined, the whole scheme seems designed to minimise the number of successful claims, rather than providing an essential and fair safety net for property owners with a justifiable need to sell during its period of operation.

Operation of the Exceptional Hardship Scheme

1. The panel of experts should be independent of government.
2. The independent valuers appointed to assess impact on property values should be experts in the geographical areas concerned.
3. The proceedings of the panel should be transparent to applicants.

In addition to the above, I have the following points to make about the consultation process itself.

Consultation Process

1. The consultation period of 10 weeks does not meet the Government's own Code of Practice of a minimum of 12 weeks.
2. The 10 weeks included a 4 week period of political "purdah" due to the general and local elections, which restricted the ability of elected representatives to consult with and advise their constituents on this important issue.
3. The planned date of 20th May to close the consultation allows no opportunity for debate and scrutiny by newly-elected MPs after Parliament reconvenes.
4. For these reasons, the consultation period should be extended by a further 4 weeks beyond 20th May, i.e. to 17th June.
5. Currently there is no committed timetable for the Government to respond to the consultation. Given the importance of this matter and the impact on people's lives, it is reasonable to expect decisions to be taken and announced within 3 months from the close of the consultation process.

The above points will form the substance of my personal response to the consultation, and I commend them to you in formulating and deciding the final response from the County Council.

Cllr John Whitehouse, Liberal Democrat Spokesperson - Environment & Economy
Warwickshire County Council