

# Decision Record – High Speed Two: Safeguarding for London to West Midlands and Property and Land Compensation Consultations

Cabinet Portfolio Holder taking decision

**Councillor Alan Cockburn – Sustainable Communities**

**Date of Decision:  
(NOT BEFORE – 18<sup>th</sup> January 2013)**

**21 JANUARY 2013**

## Decision taken

That I, as Portfolio Holder for Sustainable Communities, authorises the Strategic Director for Communities, in consultation with the Deputy Leader and myself, to finalise the County Council's responses to the consultations on the lines indicated in the appendices and to agree a joint response from 51m to the Property and Compensation consultation.

## Reasons for Decisions

### Safeguarding Direction Consultation

Before the Secretary of State makes a formal decision on the safeguarding routes/procedures, HS2 Ltd is undertaking a consultation both on the area of safeguarded land and the procedures to be followed if a safeguarding direction is put into place.

The consultation documents ask a series of questions to which responses are invited. The questions and suggested responses are outlined as an annex to this report (Appendix A). The documents forming part of the consultation include maps showing the safeguarded area, including appendices containing the proposed wording for the safeguarding direction and proposed guidance for local planning authorities on meeting their requirements. There is also a draft impact assessment of the safeguarding proposal. All documents are available to view on HS2 Ltd website, at <http://highspeedrail.dft.gov.uk/consultations/safeguarding-consultation-london-west-midlands>

The timing of this consultation, specifically it preceding the Draft Environmental Impact Assessment and the details of the Y route (north of Birmingham to Manchester and Leeds) in the Council's opinion means that basic supporting evidence and detailed analysis is not available. There are many uncertainties in the scheme particularly the final route. Given the engineering requirements of the line (straight and

flat) a small relocation in one area will have knock on effects further down the line, this is important given that the safeguarding area is only 60 metres each side of the line. It is recommended that a further consultation is carried out at a time when the required information is available and HS2 Ltd is able to give proper consideration of all the facts.

### **The Safeguarded Route**

The Safeguarded Route follows the route of the proposed HS2 line through the County. The extent of safeguarded area and the implications of safeguarding differ between the parts of the route that are underground and the parts that are above ground or in a cutting.

The extent of the safeguarded area is 60m either side of the line where the line is above the surface and 30m either side of the outer edge of the tunnels for the tunnel sections. Where the proposed HS2 route is in a tunnel then the safeguarded area only relates to development below the surface, the guidance notes refer to developments with deep foundations although this is not explained in any more detail. Therefore, it is suggested that any planning applications requiring below surface works are provided to HS2 Ltd for comment. Recent correspondence with HS2 Ltd has indicated that it would wish to be consulted on all planning applications where the development involved foundations. However, as this is not clearly stated in the proposed safeguarding direction, and/or associated guidance, clarification of this will be required and referred to in Warwickshire County Council's response.

Where the proposed HS2 route is not in a tunnel, the safeguarding direction will require councils to consult HS2 Ltd on all planning applications within the defined area which again is 60m either side of the proposed route and can include wider areas where, for example, the proposed HS2 route would involve re-building an existing road bridge or provided some new structure to go over or under the line.

Following consultation on the safeguarded area, the Secretary of State of Transport proposes to issue safeguarding directions for HS2 Phase 1. At this stage we do not have a definitive timeline for this.

### **Implications for Warwickshire County Council as a Strategic Planning Authority**

Once the safeguarding direction comes into effect, the relevant Planning Authority will have a legal duty to consult HS2 Ltd on any planning application that falls within the defined safeguarded area. Under the regulations, the Council will have to give HS2 Ltd 21 days to respond. If no response is received within that period, the Council can proceed to decide the planning application as it sees fit. If however HS2 Ltd respond, the Council should take into account its response in making its decision. If after receiving HS2 Ltd.'s response the Council decides to disregard its suggestions, the Council has to inform the Secretary of State. The Secretary of State in turn then has 21 days to respond and may decide to notify the Council that he has no objections to permission being granted on the application, or issue a direction restricting the granting of planning permission for that planning application. If the Secretary of State does not respond within the timeframe the Council can determine the application.

The consultation documents and the cost benefit analysis of the proposed safeguarding direction both state that there will be cost implications for local authorities in providing consultation documents for HS2 Ltd on relevant planning applications. The additional statutory duties and related expenditure proposed for LPAs comes at a time when authorities are seeking to cut costs and find savings. Where additional duties are required, these should be supported by additional resource from HS2 Ltd or central government.

The guidance for LPAs states that following a decision being made on a planning application that HS2 Ltd were consulted on, the Council should send HS2 Ltd a copy of that decision. Furthermore, it states that HS2 Ltd intend to agree the consultation procedures and wording for model conditions with the local planning authorities. We look forward to receiving these and discussing these in detail.

The documentation makes clear that the safeguarded routes may not cover all the land that is required by HS2 Ltd to build the route and that, as plans for the route are firmed up, there may be further safeguarding direction areas or amendments to the earlier safeguarded areas. This means that any consultation procedures set up are likely to need to be reviewed and amended as the HS2 route design is progressed.

A copy of the safeguarded route will be linked to the Council's planning system (APAS) so that HS2 Ltd can be consulted on relevant planning applications. Further updates to the safeguarded route must be available to an agreed timeline

The guidance implies that HS2 Ltd would like to receive notification of any permitted development proposals along the safeguarded route. This would be difficult to do and would require some agreement with HS2 Ltd once the safeguarding directions are in place. Obviously, some people who know their proposed development falls within the permitted development allowance may well go on to construct that development without informing the planning authority.

The guidance also requests planning authorities to send through details of any extant planning applications. Finally, when the Council reviews its Minerals and Waste Local Plan policies (proposals) map, we will have to show the safeguarded route on our plans and ensure that none of the local plan designations conflict with the safeguarded area.

### **Implications for Warwickshire County Council as a Land Charges Authority**

Under the relevant regulations, any formal safeguarding direction has to be entered into a register of applications and as such appear on relevant land charge searches. Again, this raises issues if the safeguarded areas are amended following a search on a property. The Council will need to keep a record of when the safeguarded areas were amended and be prompt in uploading any amendments into its land charges system to avoid the possible issue of legal action should the incorrect information be given on a search related to a property that is, or was, affected by the safeguarded route.

## **Implications for Warwickshire County Council as a property owner**

The only Council property directly affected by the proposed HS2 routes is Water Orton Primary School. Part of the playing field is within the draft planning safeguarding zone, but not within the proposed extent of works. There are no proposals to the school that would be affected by the draft planning safeguarding zone.

## **Safeguarding Direction Consultation Conclusion**

Notwithstanding the Council's objection to HS2, a preferred route has now been defined which crosses across the County. The proposed safeguarding direction will require the Council to consult HS2 Ltd on any relevant planning application which falls within the safeguarded area. Given the Council will have to work within the approved legal framework, subject to concerns about additional costs and potential future changes to the safeguarded area, the Council does not object in principle but draws the Portfolio Holder and HS2 Ltd to a number of issues of concern relating to the details and seeks clarification and commitment to reassure all parties of a robust process.

## **Property and Compensation Consultation**

The Property and Compensation Consultation sets out a proposed package of measures designed for owners and occupiers of property along the London –West Midlands line of the planned HS2 route. The proposals include:

- a system of advanced and voluntary purchase to simplify the process for property owners in the safeguarded area;
- a sale and rent back scheme, to allow homeowners whose property will need to be demolished to sell their homes, but remain living in them as tenants until the properties are required for the railway;
- a hardship scheme, to help those with a need to move during the development of HS2, but who are unable to sell their home despite being outside both the safeguarded area and the voluntary purchase zone;
- a series of measures designed to provide confidence for those in properties above tunnels (before and after surveys, settlement deeds and subsoil rights); and
- a framework for working with local authorities, housing associations and tenants affected by HS2, to agree a joint strategy to replace any social rented housing which is lost.

The consultation concentrates on the presumption of domestic property; however, there are significant shortfalls in addressing concerns of businesses, particularly rural ones which may be land-based.

The property and compensation consultation raises several issues for Warwickshire County Council and these are outlined in the response set out in Appendix B.

Working with local community groups, we are aware of the many concerns facing the affected communities. We are continuing to work with representatives from the various action groups to provide support where appropriate.

**Background Information/ factors considered in arriving at these decisions - (set out below and in the officer report):**

**Background:**

Warwickshire County Council resolved in December 2010 to oppose HS2 and agreed to work with other local authorities as part of the 51m Group – a consortium opposed to the HS2 proposals – which is providing a co-ordinated opposition to the scheme. On 3<sup>rd</sup> December 2012, the Judicial Review into High Speed Rail 2 was opened, and Warwickshire County Council is one of 15 councils opposing the high speed rail link. The announcement of a decision on the Judicial Review is expected in January 2013. Meanwhile, HS2 Ltd is proceeding to develop HS2. It is intended that legal powers to build the line in the form of a hybrid bill will be put before Parliament by the end of 2013. Work is due to start on the line in 2017, subject to the hybrid bill being approved.

**Financial Implications:**

Two consultations are now being undertaken by HS2 Ltd. One relates to the proposed safeguarding direction and a second covers the proposed property compensation scheme. This report deals with both. However, the proposed safeguarding scheme will more directly impact Warwickshire County Council's planning and minerals policy and planning control functions it therefore contains a more detailed response.

None the less, the issue of the proposed property compensation scheme is also considered in this report. The impact of property compensation is already, and likely, to continue to have an adverse impact on some peoples' health and wellbeing. Warwickshire County Council shares the concerns of many residents and action groups that this issue should be addressed fully, yet expedited efficiently.

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Portfolio Holder	Councillor Alan Cockburn

## Checklist

**Urgent matter: yes/no\***

No

**Confidential or Exempt (state category of exempt information)**

No

**Is the decision contrary to the budget and policy framework?**

No

**List of Reports considered** [please attach or forward a copy]

Report from author.

**List of Background Papers** [please include directorate contact names and numbers for access to background papers]

High Speed Two: Safeguarding for London – West Midlands Consultation  
<http://highspeedrail.dft.gov.uk/consultations/safeguarding-consultation-london-west-midlands>

High Speed Two: Property and Compensation for London - West Midlands Consultation  
<http://highspeedrail.dft.gov.uk/consultations/property-compensation-london-to-west-midlands>

**Any members and officers consulted or informed and any comments given.**

Cllr Alan Cockburn (Portfolio Holder)  
Cllr Helen Walton  
CORPORATE BOARD  
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