

Decision Record – High Speed Two: Property and Compensation for London to West Midlands – Consultation

Cabinet Portfolio Holder taking decision

Councillor Alan Cockburn – Sustainable Communities

Date of Decision:
(NOT BEFORE – 26th April 2013)

30 APRIL 2013

Decision taken

That I, as Portfolio Holder for Sustainable Communities, endorses the proposed consultation response which will be sent to HS2 Ltd on behalf of Warwickshire County Council.

Reasons for Decisions

Do you agree or disagree that the Department for Transport should introduce an Exceptional Hardship Scheme for Phase Two ahead of decisions on how to proceed with the routes? What are your reasons?

We agree that the DfT should introduce an Exceptional Hardship Scheme as a matter of urgency to mitigate the uncertainty and real anguish currently being experienced by the communities of North Warwickshire. However, any measures taken to accelerate the process should not adversely affect the scheme or the integrity of the consultation process. The findings of the conclusions of the Judgement in the recent Judicial Review should be taken into consideration throughout the process.

The DfT should improve the compensation offer to a point that addresses the blight caused as a result of the route announcement made in January 2013. The Exceptional Hardship Scheme (EHS) in its current form does not remedy the blight situation. HS2 is deemed to be of national significance. Therefore, it seems appropriate and proportionate that the government addresses the issue of blight through an arrangement that will maintain confidence in the property market now and compensate property owners for the blight that has been created as a result of the January 2013 announcement. Action must be taken quickly and effectively to maintain any form of confidence in the market for property which is blighted or perceived to be blighted. Any costs arising to the individual from the HS2 project must be covered by HS2 Ltd, and the burden not passed onto the individual.

The Council recognises that a home owner may wish to sell for reasons other than “hardship”; this element of choice is not currently recognised in either the Phase One or the Phase Two processes. It would appear reasonable to accept “a wish to move” as a legitimate criterion given the extended project period of up to a decade.

It is the Council’s view that a number of other compensation alternatives including the ‘Property Bond’ afford the individual an acceptable level of fairness without burdening the taxpayer unduly. This principle was noted in the recent judgement of Lord Justice Ousely in his summary on 15th March 2013.

Do you agree or disagree with the proposed criteria underpinning the Exceptional Hardship Scheme for Phase Two? What are your reasons? Please specify any alternative principles you would propose, including specific criteria for determining qualification for the scheme.

Warwickshire County Council disagrees with the proposed criteria in their current form for the following reasons:

- a) At present, properties above a proposed tunnel do not automatically qualify for the EHS. It is reasonable to expect the government to include a new criterion in this respect, provided the property owner meets the other criteria in their application.
- b) The EHS document states that a property owner will need to show that...“no offer had been received within 15% of a realistic asking price.” It is the Council’s view that it is inappropriate for a property owner to accept any loss of value which can be proved to be directly related to the HS2 route announcement in January 2013.
- c) The presumption of prior knowledge of the Phase Two route would appear to be an unreasonable burden on a property owner. The communities blighted by the Phase Two announcement had no prior knowledge of the route alignment until it was published on 28th January 2013. Warwickshire only received its full GIS data in April 2013 following a number of requests to HS2 Ltd for the information.
- d) The term ‘exceptional hardship’ does not yet appear to be defined. This lack of clarity leaves an applicant unable to make an informed self-assessment. Furthermore, the lack of definition leaves scope for interpretation and opinion by individuals as to what constitutes exceptional hardship. Whilst the Council is pleased to see that each case will merit individual assessment, we are concerned that, despite making previous representation on this point, no criteria are available to the public. Our concern remains that without scrutiny and transparency of government policy on this matter the scope for inconsistent application remains an unacceptable risk.

Do you agree or disagree with the proposed process for operating the Exceptional Hardship Scheme for Phase Two? What are your reasons? Please specify any alternative arrangements which you would suggest.

Warwickshire County Council does not agree with the process for operating the Exceptional Hardship Scheme in its current form.

The Council remains unconvinced by the proposed arrangement for property decisions to be made by a panel appointed by HS2 Ltd. there is a risk that HS2 Ltd cannot be self-regulating or impartial when making these decisions.

It is the Council's view that HS2 and the EHS should apply a more transparent and independent process. The use of the District Valuers and the Valuation Office would ensure that these decisions are made with a degree of autonomy and transparency.

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

Background:

The HS2 Phase Two proposal for the line north to Manchester and Leeds continues to cause a level of uncertainty for the communities of North Warwickshire without any evidence of economic or financial benefit to the locality. It is Warwickshire County Council's view that providing certainty and fair compensation to the communities affected by the proposals should be an urgent and primary objective of the Government, the Department for Transport (DfT) and HS2 Ltd.

HS2 Ltd. launched the consultation for Exceptional Hardship Scheme (EHS) immediately following the announcement of the Y route north of Birmingham (28th January 2013) to Leeds and Manchester. Replies to the EHS consultation need to be submitted by the 29th April 2013. HS2 Ltd asked three questions in its consultation document, the County Council's proposed response is outlined below.

Financial Implications:

As outlined in the report.

Report Author:	Sara Board
Head of Service:	Louise Wall
Strategic Director:	Monica Fogarty
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]

None

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

Portfolio Holder – Cllr Alan Cockburn
Portfolio Assistant – Cllr Helen Walton
STRATEGIC DIRECTORS
Legal – Ian Marriott, Peter Oliver, Peter Endall
Finance – John Gregory, Liz Firmstone
Equality – Minakshee Patel
Democratic Services – Janet Purcell, Georgina Atkinson

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Cllr John Whitehouse
Cllr Chris Saint
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