



House of Commons

High Speed Rail (London–West
Midlands) Bill Select
Committee

First Special Report of Session 2015-16

*Report, together with formal minutes relating
to the report*

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High Speed Rail (London-West Midlands) Bill Select Committee

Role of the Committee

The Select Committee on the High Speed Rail (London – West Midlands) Bill provides individuals and bodies directly and specially affected by the Bill with the opportunity to object to the Bill's specific provisions and to seek its amendment, although not to object to the principle of the Bill.

Current membership

[Mr Robert Syms MP](#) (Conservative, Poole) (Chair)
[Mr Henry Bellingham MP](#) (Conservative, North West Norfolk)
[Sir Peter Bottomley MP](#) (Conservative, Worthing West)
[Geoffrey Clifton-Brown MP](#) (Conservative, The Cotswolds)
[Mr David Crausby MP](#) (Labour, Bolton North East)
[Mr Mark Hendrick MP](#) (Labour (Co-op), Preston)

Publications

Committee reports are published on the Committee's website at www.parliament.uk/high-speed-rail-london-west-midlands-bill-select-committee-commons and by the Stationery Office by Order of the House.

Committee staff

The current staff of the Committee are Neil Caulfield (Clerk), Miguel Boo Fraga (Committee Assistant), and Joanna Nurse (Media Officer).

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Contents

Report	<i>Page</i>
1 Background	3
The Need to Sell Scheme	3
Phase Two and Phase 2a	3
Sources used for this report	4
2 Findings and recommendations	5
Take-up rate and application processing times	5
Reason for wishing to sell	5
Scrutiny	7
Valuation	7
Multiple properties and non-owner occupation	8
The assessment panel and staffing	8
3 Conclusion	10
Annex	11
Formal Minutes	13

1 Background

The Need to Sell Scheme

1. The ‘Need to Sell’ (NTS) Scheme is part of the discretionary compensation package offered by the Government in relation to High Speed 2 (Phase One).¹ It superseded the Phase One Exceptional Hardship Scheme (EHS) in January 2015. It seeks to address acknowledged shortcomings in that scheme. Our First Special Report of 2014-15² identified a number of potential problems with this replacement scheme, including:

- a) the success rate of applications;
- b) efficiency of processing;
- c) stringency of assessment of applications;
- d) intrusiveness of scrutiny; and
- e) valuation processes.

This report comes about eleven months after introduction of the new scheme and eight months after our previous report.

Phase Two and Phase 2a

2. On 30 November 2015, the Secretary of State for Transport announced that a Phase 2a scheme will extend Phase One from Handsacre to Crewe by 2027, one year after the expected completion of Phase One.³ From 27 October 2015, an Express Purchase scheme has been put in place for Phase 2a.⁴ (This extends the statutory regime on compensation for blight, removing the need for an applicant to demonstrate attempted sale, and enabling blight notices to be accepted provided a minimum percentage of the property is within safeguarding.) A further expanded compensation scheme for Phase 2a is being consulted on and is provisionally expected to be launched from spring 2016.⁵ A Need to Sell scheme analogous to that for Phase One may also be forthcoming later in 2016 for the wider Phase Two project (whose target date for completion is 2033). For the time being, only an Exceptional Hardship Scheme exists for Phases Two and 2a. Any future schemes for Phase Two and/or Phase 2a may be based on the Phase One scheme. Our assessment of the fairness of the Phase One scheme therefore has significance beyond Phase One.

1 <https://www.gov.uk/government/publications/hs2-phase-one-need-to-sell-scheme-guidance-and-application-form>

2 <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhs2/338/338.pdf>

3 <https://www.gov.uk/government/publications/hs2-phase-two-east-and-west-the-next-steps-to-crewe-and-beyond>

4 *Ibid*, paragraph 5.34

5 *Ibid*, para 5.35

Sources used for this report

3. We wrote to parliamentary colleagues whose constituencies are on the line seeking their views on the experiences of their constituents with the Phase One Need to Sell scheme.⁶ We have heard about compensation issues directly from petitioners throughout our proceedings. The Department submitted a progress report.⁷ We were briefed in private by the Minister on 7 December 2015.

6 See letter at Annex

7 This has been published on the Committee website

2 Findings and recommendations

Take-up rate and application processing times

4. The Department’s progress report indicated that the acceptance rate for applications had increased from some 30% for the EHS (152 acceptances and 574 rejections) to 61% for NTS (45 acceptances and 29 rejections). This figure falls to only 39% if pending applications are included. As at the date of that report there were 29 pending cases. The improvement in acceptance rates is welcome. However, colleagues drew attention to the very low acceptance numbers overall bearing in mind that there are some 43,000 properties within 500m of the proposed line. They told us, as we heard ourselves, that many people who should probably be applying still find the scheme off-putting by its sheer complexity.

5. The current scheme is far too arduous, exacting and off-putting, and the overall acceptance numbers definitely need improving. The NTS guidance should be further reviewed and improved to make the application process more inviting. We wonder how many people make initial enquiries but are put off by its complexity. Phrases in the current guidance such as “in exceptional cases, where a strong overall case can be made, the Panel may exercise discretion [to allow] applications...” are off-putting and unhelpful.⁸ Cheryl Gillan MP’s suggested headline wording such as, ‘**Could you be eligible for the scheme?**’, which could be considered.

6. The scheme should recognise the potential cumulative effects of Phases One and Two in some areas.⁹ People experiencing actual blight perceive the current position—that blight is somehow discretely attributable to either Phase One or Phase Two—as not reflecting reality.

7. There has been a small worsening in the average time taken to process applications—from 6.9 to below 8.5 weeks. The Department has said that it is working on improvements. We ask for an update on that before our final report. In the meantime, we believe that applications pending for more than eight weeks should automatically be reviewed to determine why there is a problem.

Reason for wishing to sell

8. The scheme requires a compelling reason to sell, although there is flexibility. We have said that a fair reason to want to release capital should generally suffice, as should the “age and stage” of homeowners. For instance, homeowners in or approaching retirement should not be forced to dig heavily into savings to sustain a property whose upkeep they could previously have sustained from earned income. Neither a couple nor a person alone should be required to stay on in a large home when previously resident children have

8 Petitioner 1456 had some interesting suggestions on improving the application form; the criteria in paragraph 3.1.17 should also state whether they are separate or additive

9 C.f. paragraph 3.1.23 and page 21 of the current guidance

become non-resident adults. It will often be right for homeowners in such positions to be able to sell without having to go to any length to demonstrate their inability to sustain home running costs. Applicants should not have to show that they will be penniless in order to demonstrate an “unreasonable burden”. Retirement is as acceptable a reason to move as is a new job.

9. We have asked for figures on how many “age and stage” applications have succeeded and expect a response from HS2 in time for our final report. If common sense becomes common practice, intervention by this Committee or another Committee may not be needed.

10. Accessibility of preferred schools or the need to be close to a new business venture (not just a new job) might well be other valid reasons for wanting to sell.

11. We do not want to hear of another case where it has been suggested that applicants with infirmities who were struggling with stairs in their homes should consider moving downstairs within the property instead of being able to sell. That is not acceptable; nor is the suggestion that couples might consider living apart for all but very short periods. The starting point should be that the prospect of such circumstances provides sufficient reason to want to move.

12. While we recognise that the scheme should not incentivise flight from an area, exposure to particularly intensive and prolonged construction may well provide another valid reason to want to move, or for there to be alternative alleviation. This seems particularly acute in Camden, where certain proposed works will last until 2033. There is some scope for recognising those who are especially proximate to urban construction—including in parts of Camden—by way of communal benefit or benefits.

13. We do not name particular rural locations that are severely affected by construction, but we have several in mind and unless we see some shift in the Promoter’s position we may address particular hardship cases by way of special recommendation.

14. A rateable value limit currently set at £34,800 applies in the case of business premises in relation to which NTS, express purchase or voluntary purchase scheme applications are made. This has been applied to the discretionary compensation schemes by extension from the statutory blight regime that derives from the Town and Country Planning Act 1990. The limit for the statutory blight regime is set by statutory instrument.

15. We think in respect of HS2 this limit may be too low, at least in the case of London businesses. For illustrative purposes we have asked for figures on how many businesses in Drummond Street, Camden exceed the limit. We welcome Camden Borough Council’s provision of further information. We seek a quick, preliminary response from the Department. After further consideration we may seek a review of the current limit.

Scrutiny

16. In too many cases, financial scrutiny is excessively intrusive when judged against the grounds of application. We were told of cases where hundreds of pages of financial disclosure were required. We previously asked for humane discretion. The guidance still talks about presenting “as much supporting evidence as you can provide” and employs emotive language such as “*failure* [our emphasis] to submit originals...or documentary evidence...will cause delays”. That is hardly appropriate to a scheme intended to help people suffering misfortune from the project. Why should applicants be asked about their financial circumstances at all if they are not claiming a need to move because of financial hardship? Furthermore, applicants should not automatically be asked whether they want to consider submitting more evidence. That creates an impression of an overly bureaucratic, even somewhat oppressive, process.

17. There has been evidence of an over-zealous approach to seeking medical evidence to support claims of infirmity. For instance, demonstrating unmanageability of a property should not necessarily require applicants to provide detailed personal information on their own infirmity if the size of the relevant property and other factors are determinative. This needs more sensitive handling and a proportionate approach by HS2.

18. Petitioners and others still complain of having to provide evidence of an inability to market their homes successfully, despite being in areas of clear blight. We acknowledge the need to avoid exacerbating blight by explicitly or implicitly designating areas as badly affected but previously we suggested that that could be avoided if the Need to Sell assessment panel worked from a set of confidential assumptions about inability to sell. Furthermore, where local estate agents have a policy of insisting on up-front fees for marketing because of HS2, that should normally be assumed to be a sufficient indication of blight to meet the criterion on failure to market successfully. The NTS guidance should make this clear.

19. The Department's report says that neighbouring properties might experience different marketing success. Given the injustice potentially felt through different assessment of neighbouring properties there could nevertheless be a starting point assumption that properties such as semi-detached houses will be treated similarly. The Minister cited the need to avoid a domino effect on properties—11, 13, 15, 17 and so on within a street. We accept that, but if numbers 11 and 17 are accepted on the scheme there might usefully be a starting assumption that numbers 13 and 15 should not need to go through many hoops.

Valuation

20. Need to Sell applicants have complained that outside valuers appointed by HS2 may not understand the local market. We heard about valuers allegedly citing already blighted properties as comparables, or failing to notice that a cited comparable property was beyond a popular school's catchment area and thus was of lower value. We heard also of cases where it was impossible to find more than one local valuer because the valuation panel

membership was too restrictive. These shortcomings are not acceptable. We would prefer a panel appointment system that takes more account of the need for local market knowledge. The Department has said it will consider this.

21. We have asked the Department to consider whether the requirement not to have received an offer within 15% of the realistic asking price should be reviewed in the case of the London property market, where asking prices are often achieved or even exceeded.

Multiple properties and non-owner occupation

22. Some people have more than one property. There may be a need to sell one near the proposed line, for instance, because a mortgage matures. Owning another property may be relevant, but, if applicants can demonstrate that an affected property is a financial strain, the need to sell should mostly be assessed in terms of the sustainability of the property itself. The starting point should not be that applicants be required to sell up from, or mortgage, their second property to subsidise the affected one.

23. Reluctant landlords are covered by the scheme. It should be clarified that this extends to, for example, military personnel who are homeowners renting out a property because they are in military accommodation. Clergy living in church accommodation might be in an analogous position.

24. In Camden, we heard about non-resident landlords whose rental income may be reduced during construction blight. Although rental income from properties near to the proposed line may not be depressed in the same way as freehold and long-term leasehold values, we would like the Department to look at whether exceptions or provisions should be made to the overall approach on rented properties where, for example, rental income provides a critical element of a small pension.

The assessment panel and staffing

25. Colleagues asked about the independence and membership of the Panel. We accept that having an HS2 representative person on the Phase Two Exceptional Hardship Scheme panel is important in ensuring the Panel know the right facts about the route. It is not clear why, however, 15 HS2 representatives are needed, nor why some are drawn from human resources, corporate communications and corporate services strategy. In any event, their role should be confined to information provision; they should take a back seat on decision making. We have asked for figures on how many Panel decisions have been overturned by department officials against and in favour of applicants. Many parliamentary colleagues have members of staff whose entire time is spent on liaising with NTS applicants. They should have access to specific help from HS2 so that they can help applicants make easier progress.

26. **We heard of a worrying case in which the Panel agreed the owners' need to sell and through the normal valuations processes settled the unblighted value at £45,000 more than the highest offer previously received by the owners. The Panel's agreement came despite that previous highest offer being within 15% of the unblighted value. Before**

completion, another potential purchaser appeared, offering £35,000 less than the agreed unblighted value. The NTS offer was then withdrawn. In this case, we do not consider it reasonable for the owners to have been required to accept such a loss on the basis of revocation of the offer and an apparent shift in the position on acceptability of offers within 15% of unblighted value.

27. We heard of other cases where an acceptance was later reversed, in one instance because of error and in another because, oddly, a potential buyer appeared to have intervened directly with the Department. We have serious doubts about the propriety of the latter. The starting point should be that acceptances stand as acceptances, although we accept that whether and in what circumstances the owners continued marketing their property may be relevant.

28. It would be reasonable for the Residents Commissioner or Parliamentary Ombudsman to have a role in assessing performance or in addressing complaints and for the panel to have ready access to medical advice. Applicants should not have to incur substantial expense in obtaining medical opinions. It might be that applicants should be invited to put the Panel directly in touch with their general practitioner for follow-up, and to save time.

3 Conclusion

29. We welcome the progress that has been made with some aspects with the Need to Sell scheme. We thank the Minister for appearing before us to discuss the scheme. We are encouraged that the Department has said it is not complacent. We notice some appropriate uses of discretion in relation to applications. There remains some disparity between the aspirations for the scheme and the way it is actually working. It is important that that, and the other points made in this report, are faced before we conclude our proceedings.

Annex

27 October 2015

Dear Colleague

HS2 Phase One ‘Need to Sell’ scheme

In our interim report, published before the election, we highlighted a number of issues with the HS2 Need to Sell scheme and the predecessor scheme about which we had heard during evidence sessions with petitioners. We plan to revisit progress with the Need to Sell scheme over coming weeks.

A link to the interim report can be found here:

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/high-speed-rail-london-west-midlands-bill-select-committee-commons/news/interim-report-published/>

The Government response is here:

<https://www.gov.uk/government/publications/hs2-phase-one-promoters-response-to-select-committee-interim-report>

We are interested in your views on whether the NTS scheme has been operating more effectively. In particular:

- Is the revised scheme rolled out in January more effective?
- Are applicants with a genuine reason to sell being accepted?
- Are applicants whose reason is their age and stage in life being accepted?
- Are applications being dealt with efficiently?
- Is the amount of financial scrutiny more reasonable?
- How easy is it to demonstrate inability to sell based applicants’ on location in particularly badly affected areas?
- Are grounds for application that have been accepted at one stage now being accepted on later applications?
- Is the scheme working successfully to reassure those who would actually prefer to stay on in their homes that they can be accepted at a later date if they need to?
- Are valuations being conducted fairly?
- Is there a problem with HS2’s use of valuers not from the local area, and why?

- How easy are the forms and guidance to understand, and how clearly do they explain flexibility of application criteria and required evidence?
- Have you encountered instances where borrowing against property value for business purposes has been prejudiced by blight (e.g. small business owners raising capital from their own homes and finding it difficult)

Finally, are cases of particularly adverse effect (e.g. special proximity to construction works) being treated fairly as deserving special compensation?

Thank you for your input. We shall use it in further evidence sessions and in reaching our final conclusions. Could you kindly let us have your responses by close of play on Wednesday November 11.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Syms', with a long horizontal line extending to the right.

Mr Robert Syms MP
Chair

Formal Minutes

Wednesday 16 December

Members present:

Mr Robert Syms, in the Chair

Mr Henry Bellingham
Sir Peter Bottomley
Geoffrey Clifton-Brown

Mr David Crausby
Mr Mark Hendrick

Draft Report (*High Speed Rail (London–West Midlands) Bill Select Committee: First Special Report*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 29 read and agreed to.

Annex agreed to.

Resolved, That the Report be the First Special Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Thursday 17 December 9.30am