

## HS2 Exceptional Hardship Scheme Consultation – Draft Response

### Introduction of an Exceptional Hardship Scheme

*Should the Department for Transport introduce an Exceptional Hardship Scheme ahead of decisions on whether, and if so how, to proceed with a high speed route?*

We support the introduction of the proposed scheme subject to the comments below.

### Exceptional Hardship Scheme Principles and Criteria

*Do you agree with the proposed principles underpinning the proposed Exceptional Hardship Scheme? If not, what alternative principles would you propose, including specific criteria for determining qualification for the scheme?*

We broadly agree with the principles underpinning the proposed scheme but feel that the following amendments should be made

**2.11 Effect of Tunnels.** The experience on the Jubilee Line Extension and HS1 has shown that a material impact on value from the construction or use of running tunnels is rare. However, we do not agree that the *blighting effect* of tunnels will necessarily be limited. Blight is caused by apprehension and uncertainty in the prospective purchaser and this can arise in the case of tunnels as well as in the case of surface acquisition.

As the proposed scheme is aimed only at those facing exceptional hardship we believe it would be unjust to exclude those suffering exceptional hardship through the blighting effect of tunnels. Although the apprehension on the part of the prospective purchaser may be misplaced, it will have the same effect on the vendor suffering hardship.

HS2 may be able to address the fears of potential purchasers but the problem will be identifying them before they discount the affected property from their search. If HS2 succeed, they will be able to avoid the hardship. If they fail, the person suffering exceptional hardship should not be denied the safety net of the proposed scheme.

**2.12 Non-residential property.** Non-residential property should not be excluded from the scheme but should be subject to the same rateable value limit as for statutory blight, i.e only non-residential properties with a rateable value below £34,800 would be eligible. The requirements for being an owner occupier should apply as for residential property.

This will allow some small businesses, usually run as a person's livelihood, to be caught by the scheme as the same hardship can apply if the property cannot be sold due to blight.

**2.14 Causes of hardship.** It is increasingly common for a home or business to form a material part of a person's financial planning for retirement. We would therefore recommend that an additional cause of hardship be added which relates to a person retiring. This could be an additional criterion of "retirement from employment at or beyond the statutory retirement age."

**2.15 No offer within 15% of the market value.** This is the same criterion as adopted for the Crossrail hardship policy. We understand that the logic was to require a margin that was outside the normal variation in professional valuations. However, this means that an affected person could potentially have to suffer a reduction in value of their property of up to 5% and fall outside of the proposed scheme. For an “average” property this would be in the order of £15,000.

The statutory blight provisions require only that a person has made reasonable endeavours to sell and has not been able to other than “at a price substantially lower than that for which it might reasonably have been expected to sell” in the absence of the blight. We would recommend either that this more flexible test is adopted in place of the scheme or that the range within which no offers have been received is reduced to within 10% of the unaffected market value, which is the accepted range within which professional valuations are expected to fall.

**2.16 Cause of inability to sell.** We understand that the proposed scheme should not inadvertently compensate people for general market conditions not due to the HS2 proposals. However, we feel that requiring the applicant to demonstrate that HS2 is the cause of their inability to sell is an onerous condition that would be difficult to meet in practice.

We would recommend that this provision be included in the scheme as a possible defence for the Secretary of State to establish. The most common reason for properties failing to sell within a reasonable time is overpricing. With comparison to other properties on the market outside the area affected by HS2 it would be relatively easy to establish if a property was overpriced.

This could be done much more objectively than trying to demonstrate the reason for an absence of buyers, particularly where there have been no potential buyers from whom to elicit reasons for not progressing to purchase.

**2.17 Knowledge of the scheme.** We understand the reasoning behind this requirement but unfortunately its presence serves as a further deterrent to potential buyers. As the HS2 proposals are now in the public domain, it also raises the question of to whom a vendor should sell an affected property if any purchaser is to be penalised by exclusion from the hardship scheme.

Blight is a product of uncertainty and apprehension, particularly if a buyer thinks they may be trapped in the property as the prospect of the HS2 construction draws closer, without recourse to the safety net of the proposed hardship scheme.

The proposed policy is tightly drawn and is unlikely to be triggered by many owners. It also expires once the statutory blight provisions are triggered. We believe that the exclusion of those that purchased the property in the knowledge of the scheme is unnecessary and unfair.

## Operation of the Exceptional Hardship Scheme

*Do you agree with the proposed system for operating the proposed EHS? If not, what alternative arrangements would you suggest?*

**2.21 Disturbance compensation and home loss payments.** We do not disagree with the reasoning for the exclusion of disturbance compensation and statutory payments. However, the Secretary of State will be aware that such payments are provided for under the statutory blight regime which also operates in circumstances where the applicant would otherwise have incurred the costs of removal himself.

**2.23** The proposed scheme is intended to operate where the “property owner-occupier has an urgent need to sell their property”. We would therefore recommend that the receipt of an application, convening and reporting of a panel and a decision by the Secretary of State be undertaken in less than the proposed three months. We would recommend a period of not more than six weeks.

We would further recommend that completion of the purchase is undertaken within 28 days of the acceptance of the offer unless a later date is requested by the applicant or the applicant fails to adduce satisfactory title.