

HS₂ PHASE ONE SAFEGUARDING DIRECTIONS

With guidance notes for local
planning authorities

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October 2013



Department for Transport

High Speed Two (HS2) Limited has been tasked by the Department for Transport (DfT) with managing the delivery of a new national high speed rail network. It is a non-departmental public body wholly owned by the DfT.

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Safeguarding directions for development affecting the route and associated works for the HS2 rail project London-West Midlands

The Secretary of State for Transport gives the following directions to the local planning authorities named in the Schedule in exercise of the powers conferred by articles 16(4), 25(1) and 29(6) of the Town and Country Planning (Development Management Procedure)(England) Order 2010¹ (“the Order”).

Commencement

1. These Directions come into force on 24 October 2013 (“the commencement date”).

Application

2. These Directions apply in respect of any application for planning permission which:
 - (a) has not been finally determined by the commencement date;
 - (b) relates to development within the zone specified in paragraph 3; and
 - (c) is not an exempt application by virtue of paragraph 4.

Relevant zone

3. The zone referred to in paragraph 2(b) is the zone shown bounded by lines marked “Limits of Land subject to Safeguarding Direction” on the plans annexed to these Directions (being the zone relating to the route of a railway proposed to be constructed between London and the West Midlands).

Exempt applications

4. An application is exempt for the purposes of paragraph 2(c) if it is an application for planning permission which relates to development that:
 - (a) lies within the zone shown on the plans referred to in paragraph 3 and is not shown shaded on those plans;
 - (b) consists only of an alteration to a building which is a hereditament that falls within the scope of section 149(3) of the Town and Country Planning Act 1990² (both before and after the development); and
 - (c) does not involve, or is not likely to involve, any construction, engineering or other operations below existing ground level.

¹ SI 2010/2184, made under the Town and Country Planning Act 1990 (c. 8), see in particular section 74.

² 1990 c. 8.

Duties on local planning authorities

5. Before a local planning authority may determine any planning permission in respect of any application for planning permission to which these Directions apply it must consult High Speed Two (HS2) Limited (Company No. 06791686).
6. Where a local planning authority is required by paragraph 5 to consult High Speed Two (HS2) Limited, they must not grant planning permission otherwise than to give effect to the recommendation of High Speed Two (HS2) Limited:
 - (a) unless they have delivered to the Secretary of State for Transport the material specified in paragraph 7; and
 - (b) until the expiry of a period of 21 days from the date on which that material was delivered to the Secretary of State.
7. The material referred to in paragraph 6 is:
 - (a) a copy of the application together with a copy of any plans or documents submitted with it;
 - (b) a copy of the response of High Speed Two (HS2) Limited to the consultation by the local planning authority in pursuance of paragraph 5;
 - (c) such information regarding the application as the Secretary of State may require by direction under article 29(6) of the Order; and
 - (d) a statement on the provisions of the development plan and other issues involved, including whether the grant of permission would be contrary to the views of another Government Department.
8. This Safeguarding Direction revokes and replaces the Safeguarding Direction issued to local planning authorities on 9 July 2013 in exercise of the powers conferred by articles 16(4), 25(1) and 29(6) of the Order.

Signed by authority of the Secretary of State

A handwritten signature in black ink, appearing to read 'Richard Buckley', is written over a faint, light-colored circular stamp or watermark.

Richard Buckley
A Senior Civil Servant in the Department for Transport

Schedule

London Borough of Camden

London Borough of Brent

London Borough of Ealing

London Borough of Hammersmith and Fulham

Royal Borough of Kensington and Chelsea

Westminster City Council

London Borough of Hillingdon

Buckinghamshire County Council

Hertfordshire County Council

Oxfordshire County Council

Northamptonshire County Council

Warwickshire County Council

Solihull Metropolitan Borough Council

Staffordshire County Council

Birmingham City Council

South Buckinghamshire District Council

Wycombe District Council

Three Rivers District Council

Chiltern District Council

Aylesbury Vale District Council

Cherwell District Council

South Northamptonshire District Council

Stratford on Avon District Council

Warwick District Council

North Warwickshire Borough Council

Lichfield District Council

Secretary of State for Transport

Guidance notes for local planning authorities to accompany safeguarding directions issued for the HS2 railway line project - Phase One London-West Midlands

Background

1. These Safeguarding Directions were issued and came into force on 24 October 2013 under articles 16(4), 25(1) and 29(6) of the Town and Country Planning (Development Management Procedure) (England) Order 2010³ ("the Order"). They replace the previous Safeguarding Directions for Phase One of HS2 issued on 9 July 2013.
2. Phase One of HS2 is proposed to run from London Euston to the West Midlands (with a new station in central Birmingham), including a connection to High Speed One in London and to the existing West Coast Main Line north of Lichfield.
3. In order to protect the planned railway corridor from conflicting development before construction starts, the Government has safeguarded the London to West Midlands route (Phase One) of HS2 using Safeguarding Directions, which are an established tool of the planning system designed for this purpose. Safeguarding aims to ensure that new developments along the route do not impact on the ability to build or operate HS2 or lead to excessive additional costs. The Safeguarding Directions have been issued to Local Planning Authorities ("LPAs"), by the Secretary of State for Transport. As a result LPAs need to consult High Speed Two (HS2) Limited ("HS2 Limited") with regard to any planning applications falling within paragraph 2 of the Safeguarding Directions before determining an application for planning permission.
4. At the time of making and issuing the 9 July 2013 Safeguarding Directions the Government was also consulting on the proposed Design Refinements to Phase One. As a result of that consultation - which proposed (at Northholt and near to the Bromford Viaduct) tunnels instead of a surface alignment - it was not entirely certain what the safeguarding requirements would be relation to those parts of the Phase One route. As such the Secretary of State for Transport decided not to safeguard those parts of the route until a decision had been taken in respect of those potential tunnels.
5. The outcome of that consultation exercise is that the Secretary of State has decided that there should be tunnels in the Northholt and Bromford sections, and is now making and issuing replacement Directions to LPAs to reflect those decisions and to put in place safeguarding for the entire Phase One route.

³ SI 2010/2184.

Processing of Applications

6. Applications for planning permission on which HS2 Limited must be consulted, in accordance with paragraph 5 of the Safeguarding Directions, should either be sent by first class post to:

The Safeguarding Planning Manager

High Speed Two (HS2) Limited

2nd Floor, Eland House

Bressenden Place,

London SW1E 5DU

Or by email to: town.planning@hs2.org.uk

7. Such applications must not be determined before the expiry of the period for consultation set out in article 16(5)(b) of the Order.

8. Any applications sent to HS2 Limited under paragraph 5 of these Safeguarding Directions will be considered by HS2 Limited on a case by case basis on the grounds of whether the proposed development will impact on the ability to build or operate HS2 or lead to excessive additional costs.

9. Where the application does not include all the information required to allow HS2 Limited to determine whether the development will impact on the ability to build or operate HS2 or lead to excessive additional costs, HS2 Limited will notify the LPA without delay setting out what additional information is needed and why.

10. In order to assist developers to design buildings that do not conflict or obstruct the route of HS2 and to avoid the possibility of a recommendation of refusal being made to the LPA by HS2 Limited under these Safeguarding Directions, HS2 Limited intends to produce information about HS2 design criteria for the use of developers bringing forward new developments in the safeguarded area of the route of HS2.

11. Where HS2 Limited has not responded within the period set out in article 16(5)(b) of the Order, the LPA may proceed to determine that application. Where HS2 Limited has responded, the LPA will not be bound by that recommendation. However, if it does not accept the recommendation, it will be required to notify the Secretary of State for Transport under paragraph 6 of the Safeguarding Directions.

12. Where permission is refused due to a conflict with the HS2 project, the decision notice should include that conflict in the reasons for refusal. Copies of all decisions on planning applications on which HS2 Limited have been consulted should be sent to the Safeguarding Planning Manager at the above postal or email address. HS2 Limited has developed procedures for handling consultations relating to the Safeguarding Directions and may recommend that conditions are imposed in specified circumstances and where appropriate in order to protect the HS2 project.

13. Applications which local planning authorities are minded to approve against the advice of HS2 Limited should, in accordance with paragraph 6 of the Safeguarding Directions, be sent, together with the material specified in paragraph 7 of the Safeguarding Directions, by authorities by first class post to:

High Speed Rail Property Team

Department for Transport

Great Minster House

33 Horseferry Road

London SW1P 4DR

Or by email to: highspeedrail@dft.gsi.gov.uk

14. The Department for Transport will inform LPAs of the date of receipt of the application and the material required under paragraph 7 of the Safeguarding Directions, and will, within 21 days of that date, either notify authorities that there are no objections to permission being granted, or issue Directions restricting the granting of permission specifically for those applications.

15. Where the Department for Transport has not responded to this consultation within 21 days of receipt of the papers referred to above, the LPA may proceed to determine the application.

Blight and purchase notices

16. The provisions of the Town and Country Planning Act 1990 on blight and purchase notices will apply to property affected by safeguarding. The appropriate authority to receive purchase notices is the LPA. Blight notices should be served on The Secretary of State for Transport and sent to:

The Land and Property Team

HS2 Limited

2nd Floor, Eland House

Bressenden Place

London SW1E 5DU

Further details of the provisions and how to complete the prescribed form can be obtained from the Land and Property Team at the above address.

Planning and local land charges registers

17. In accordance with article 36(4)(b) of the Order, particulars of the Safeguarding Directions must be entered in Part 2 of the Register of Applications, in respect of any application for planning permission to which they apply. The Department for Transport/HS2 Limited is also of the view that the safeguarding provisions should be revealed in response to Optional Enquiries sent with requisitions for searches of the local land charges register in relation to properties within the zone described in paragraph 3 of the Safeguarding Direction.

Extant planning permissions

18. Where LPAs are aware of, or become aware of, any extant planning permissions affecting land within the zone described in paragraph 3 of the Safeguarding Direction, which have yet to be implemented, it would be helpful if they could let HS2 Limited know about these.

Pending planning applications

19. LPAs are reminded that the Safeguarding Directions issued on 24 October 2013 apply to any planning application that has not been finally determined by that date (and which includes cases where a resolution to grant a permission has been made by the LPA but the permission has not been formally issued) other than an application in relation to development of the exempted category specified in paragraphs 2 and 4 of the Safeguarding Directions.

20. Accordingly, LPAs must review all pending applications to determine whether the development proposed is development to which these Safeguarding Directions apply.

Local plans

21. In preparing any local plan document we advise that the area safeguarded by the Safeguarding Directions should be identified in the amended Local Plan. In those cases LPAs should indicate the Safeguarding Directions on the Policies Map and should not include any proposals in their Local Plan which conflict with the Safeguarding Direction.

22. If a local plan designation was promoting for example a development site, then when a subsequent planning application was submitted for that development the conflict with the safeguarded area should be addressed without the need to amend the local plan allocation. Any conflicts with the Safeguarding Directions on a policies map should be considered when the local plan or relevant Development Plan Document is revised.

23. Local Plans should state that the Safeguarding Directions have been made by the Secretary of State for Transport. They are not proposals of the LPA and the routes in question will not be determined through the development plan process. They will be considered in Parliament under hybrid Bill procedures, which will provide appropriate opportunities for petitions to be made to Parliament by those directly affected by the scheme.

24. Further information on the hybrid Bill procedures can be obtained from www.parliament.uk and from the HS2 Limited enquiries line – telephone 020 7944 4908 or HS2enquiries@hs2.org.uk

25. Where the local plan has been submitted for independent examination, the LPA should record any representations received which relate to the Safeguarding Direction and bring these to the attention of the inspector appointed to hold the examination of a Local Plan document. The inspector's role is to consider the policies of the LPA set out in the draft local plan document. If the inspector is satisfied that an objection is solely to matters covered by the Safeguarding Directions, rather than to proposals of the LPA, the inspector is unlikely to consider the objection to be relevant to consideration of the local plan document.

26. LPAs when adopting supplementary planning documents should note in the statement of consultation any representations received which relate to the Safeguarding Directions.

Timing

27. These Safeguarding Directions come into force on 24 October 2013 and apply in respect of the categories defined in paragraph 2 of the Safeguarding Directions.

24 October 2013