

Why everyone (ie those on Phase 1, Phase 2 and elsewhere in the UK) should respond

- The **principle of fair treatment** is one that everyone in society should support
- To **set a better precedent** for everyone blighted by this Government's infrastructure plans
- To **build on our win in court** and show Government can't ride roughshod over people's views
- To **input Phase 1 experiences** of having EHS, where it has applied for over 2.5yrs
- To **remind Government** that HS2 is still a bad deal for Britain.

How to respond. **Remember it must be done by 29 April 2013**

1. Use a [hardcopy response form](#) and **post** to FREEPOST address or **e-mail** to hs2ehs@ipsos.com
 2. Use the [online response form](#) (set up by ipsos-mori) for your response – and save your answers!
 3. Alternatively **just write** with your views on the **questions** and **other points** and **post** to the same address ie "FREEPOST, PHASE 2 EHS CONSULTATION" or **e-mail** to hs2ehs@ipsos.com
 4. All family members, friends, etc in UK/abroad should respond – some might do a full response, others just a simple **statement**. But only do one response per person, as others will be discounted
- Important – don't just answer the 3 questions– demand full and fair compensation, & not an EHS!**
This note gives some key points, but please use your own words. More information on HS2AA website.

Q1. Do you agree or disagree that the DfT should introduce an Exceptional Hardship Scheme for Phase 2 ahead of decisions on how to proceed with the routes? What are your reasons?

(It asks if an EHS should be introduced until the statutory rules apply (expected end 2016) and why)

Agree need a scheme – not EHS. Blight happens overnight, is unavoidable, extensive, and a known phenomenon caused by (1) the physical & amenity impacts of a project, (2) the uncertainty of the final outcome, and (3) the fear of an uncompensated loss. An effective solution must address all 3 causes.

Blight is **unfair, unjust**, and traps people **removing their freedom** to move/re-mortgage. It undeniably causes enormous **stress, worry & upset** for individuals & communities. It paralyses property markets.

The **size of loss** in people's largest asset is huge. From an unpublished CBRE report for DfT, HS2AA assess blight causes an avge 19.5% loss (27.7% rural) if all the blight is in 1km either side of the line.

Individuals should not suffer a large uncompensated loss in the value of their property. Given HS2 is said to be in the national interest, those impacted must be **fully and fairly compensated** – not by 'exception' or by a 'hardship' scheme – otherwise it is a **tax on property owners** in the vicinity of HS2.

The **logic of an EHS** does not apply to the HS2 time-profile. DfT say the eventual blight from HS2 when it's built will be modest, but accept it is much worse before then. So what is needed is a scheme that 100% protects the individual from bearing that "temporary" loss – which for HS2 is for 20 years+.

DfT say EHS ends in 4yrs when statutory blight rules apply, but these cover tiny % of blighted homes.

Q2. Do you agree or disagree with the proposed criteria underpinning the EHS for Phase 2? What are your reasons? Please specify any alternative principles you would propose, including specific criteria for determining qualification for the scheme

(It asks if the proposed five criteria should apply and why (ie 1.on property type; 2. location of property; 3. efforts to sell & impact of blight; 4. no prior knowledge; 5. hardship) and any alternative approaches)

Disagree. Criteria **too restrictive** so too few qualify (Phase 1 experience is just 104 on 120miles – 40 a year); **too subjective** & open to interpretation with limits of discretion unclear; **too arbitrary and unreasonable** ie unjustified in the circumstances of blight and timescales; **doesn't meet the declared aim** of EHS (to protect the interests of property owners losing value in their property)

Specific points on each of the five proposed criteria and recommended changes:

1. **Property type:** (1) **Unfair** to exclude rented property (especially if sole property), & 2nd homes
2. **Location:** (1) **Unnecessarily restrictive** – it confines EHS to physical impacts of HS2 and so excludes many properties losing value (eligibility depends on being "adversely affected by construction or operation" and so ignores the impact of blight that goes much wider; (2) **Conflicts with stated aim** of EHS (as the Judge in the Helstrip EHS case notes) which is to

- alleviate blight; (3) **Too subjective** ie to balance distance, railway height, landscape, likely disruption; unclear if omitting '*substantially...affected*' in the Phase 2 rules is material; (4) Wrong to exclude cases **over bored tunnels** given the aim of EHS – instead let the blight criterion decide if they qualify; (5) **Don't need a location criterion** (as well as the criterion on blight) – almost 40% of Phase 1 cases passing the blight criterion are rejected on 'location')
3. **Blight:** (1) **15% loss is too high** (rules exclude anyone with an offer within 15% of property's asking price – equivalent to 1 yrs pre-tax salary). Instead use the typical average figure (ie 7.5%) and it must be off the unblighted asking price as in Phase 1; (2) **Using 'offers'** is open to abuse and unfair (as an agent knows if it's an EHS case; & not all offers are 'serious'); (3) **Unreasonable terms** to insist on 3 months advertising with an agent if they require an up-front fee as some do (Phase 1 and HS1 evidence), so must reimburse or allow DIY; (4) **Too subjective** eg proof it won't sell due to HS2 – use time limit instead; (5) **Base blight criterion only on evidence of 'loss in value'** (using RICs valuation basis) ie meeting aim of EHS.
 4. **No prior knowledge** of HS2: (1) **Bakes in the blight** (as it works against the property market by depressing prices as any new buyer knows they can't qualify under a Scheme and so will insist on buying at a discounted price); (2) **Remove this criterion** and the hardship criterion to allow the scheme to improve market confidence and alleviate the source of the blight itself.
 5. **Hardship:** (1) **Inappropriate rule** for 4yrs (statutory rules then ignore most blight) & personal circumstances are unrelated to the degree of blight suffered; (2) **Too restrictive & subjective** (67% of Phase 1 cases fail this test ie proving a 'pressing need to sell' & causes 'exceptional hardship' if can't sell); (3) **Unreasonable terms** (DfT say it can't pre-define what 'exceptional hardship' is, or give examples – but refers to finance, health, disability, family issues, court settlement – with less detail than Phase 1!); (4) **Remove criterion as not related to blight.**

Alternative criteria: see above. Eligibility should be based solely on proving blight ie *loss in market value* which is practicable, transparent & relevant to the scheme's aim. All other criteria are redundant.

Alternative principles: The **polluter should pay** ie the blighting is a consequence of HS2 and so it should be a cost to HS2 and not those who happen to live in the affected locality. Must have a scheme that addresses the problem of blight itself eg a **market-based Property Bond Scheme** that can reassure owners, provide market confidence by mortgage lenders accepting unblighted valuations, and so reducing blight itself. HS2 Ltd becomes 'purchaser of last resort'. Further scheme details are [here](#).

Q3. Do you agree or disagree with the proposed process for operating the EHS for Phase 2? What are your reasons? Please specify any alternative arrangements which you would suggest.

(It asks if the proposed operation of EHS should apply and about any alternative arrangements)

Disagree. An **independent appeal** stage must apply. Phase 1 experience is clear evidence of a need, with 27% re-applications and up to 5 goes before success. Current process (2 independents on a 3-man panel, with DfT nominee taking the decision) means Government still has absolute discretion.

Strong evidence from Phase 1 EHS also supports: (1) applicants must **see all the data** used on which a decision is based ie from agents too; (2) **Medical** eligibility for 'hardship' requires appropriate Panel competencies or a medical approval process; (3) **publishing more data** on EHS cases to dispel the scepticism about unfair decisions; (4) **Personal representation** should be allowed for re-applications.

Phase 2 changes welcome: no time limit on accepting offers; re-apply against only the refused criteria

Other key points to consider for your response

Information: HS2 ltd have refused to publish the relevant data it holds on Phase 1 blight & EHS, so Phase 2 are not properly informed. The last consultation was been judged "unlawful" for this reason.

Open-minded: Phase 2 EHS is almost identical to Phase 1, so how can DfT be 'open minded'?

Property Bond. This is a better solution to the blight problem. It not only provides market confidence and reduces blight, but will reduce opposition to the Project, that itself costs money. It was endorsed by property professionals in 2011 consultation; it's being actively promoted by MPs and others eg CLA.

Property loss. EHS compensates perhaps 50 cases/a on Phase 2, leaving everyone else without compensation. HS2AA estimate the loss at £5bn (Phase 1) and some £10bn (on full Y), but less if a Property Bond approach is used. The full loss, whoever bears it, must go in the business case.

.....If the Government can't afford fair compensation, then it can't afford HS2!