

**ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET MEMBER**

<b>1. Meeting:</b>	<b>Cabinet Member for Regeneration and Development</b>
<b>2. Date:</b>	<b>25 April 2013</b>
<b>3. Title:</b>	<b>Department of Transport Consultation Paper – High Speed Two: Exceptional Hardship Scheme for Phase Two</b>
<b>4. Directorate:</b>	<b>Resources</b>

**5. Summary**

This report refers to a consultation document issued by the Government Department of Transport on it's proposed 'Exceptional Hardship' scheme in relation to the high speed rail links from the West Midlands to Leeds and Manchester and a Heathrow spur (HS2).

The route of the proposed HS2 link to Leeds passes through Rotherham borough, and as an owner of land along the proposed route RMBC has been directly consulted.

The paper considers the Exceptional Hardship scheme proposals and proposes a response to the request for consultation.

Members are asked to support the proposed consultation response.

Due to the need to respond before the 29 April deadline, approval of the Mayor is required to exempt the decision from call in procedures.

**6. Recommendation**

**Cabinet Member is asked to support the proposed response to the consultation**

## **7. Proposals and Details**

### **7.1 Background**

On 10 January 2012 the Government announced its strategy for a national high speed rail network known as HS2. Phase Two of HS2 is proposed to extend North from the West Midlands with two legs, one running North east to Leeds via stations in East Midlands and South Yorkshire. The Eastern leg includes a station serving the region to be located at Meadowhall alongside the M1.

Government has acknowledged that until a final decision is made on the route for Phase two, there will be uncertainty about which properties will be required to be purchased in order to construct and operate the new line, and which additional properties may be affected during its construction.

Given the long timescale to the HS2 project, the government intends to introduce a discretionary Exceptional Hardship Scheme (EHS) which would be available to residential, agricultural and small business owner occupiers whose property values may be affected and who can demonstrate the need to sell their properties before the usual statutory protection and compensation rights take effect.

As statutory provisions exist for 'blight' and dealing with properties acquired through compulsory purchase the government intends that the EHS scheme will remain in place only until the end of 2016. By this time the government anticipates that the final decision on the route of HS2 will be determined.

### **7.2 The Exceptional Hardship Scheme (EHS)**

As is noted in 7.1 above, the EHS is intended by government as an interim measure which would remain in place until such time as statutory compensation measures apply.

The government have set out in the consultation paper the criteria for those who would be eligible to apply for EHS;

#### **Criterion 1 – Property Type**

- Owner occupiers of private residential properties
- Owner occupiers of business premises with an annual rateable value not exceeding £34,800
- Owner occupiers of agricultural units
- Mortgagees (i.e. banks and building societies) with a right to sell a property; or
- Representatives of a deceased person who had a qualifying interest at the time of death.

### **Criterion 2 – Location of Property**

- Distance from the line of the proposed route is a factor, although the government do not believe that a fixed outer distance from the initial preferred route should be set.
- Other factors would be considered including contours of the land, surrounding features, relative height of the railway in relation to a property and likely disruption during construction.

### **Criterion 3 – Effort to sell and the impact of blight**

- This criterion aims to ensure that blight results from the phase 2 initial preferred route and not any other factor
- Applicants would need to demonstrate that they had already made all reasonable efforts to sell their property – e.g. on the market for at least three months with a recognised estate agent and a failure to obtain an offer within 15% of a realistic asking price

### **Criterion 4 – No prior knowledge of Phase 2 of HS2**

- An applicant would not be eligible for EHS if they bought their property at a time when they could have been expected to be aware of the preferred route option.

### **Criterion 5 – Exceptional Hardship**

- An applicant would need to demonstrate that they were or so would be in exceptional hardship which would only be alleviated by the sale of their property before the end of EHS

The above criteria would exclude the Council from a qualifying interest to claim under EHS.

## **7.3 Operation of the scheme**

The EHS is proposed to be operated to allow individuals to make applications rather than by professionals only.

A majority independent panel would consider applications and make recommendations to the Secretary of State as to whether an application should be accepted or not.

Successful applicants would have their property purchased at 100% of its unlighted open market value. This figure to be assessed by two independent valuers, with associated costs paid by the government. The final value would be the average of the two assessment figures.

The secretary of State would be required to provide a decision on each complete application within three months of it being received.

## 7.4 EHS Consultation

The Department of Transport has invited consultation responses to three specific questions, which are noted below, with the Councils proposed responses;

### Question 1

**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?**

RMBC's response:

RMBC agree that an Exceptional Hardship Scheme should be introduced ahead of Phase 2 decisions on how to proceed with routes.

As a local authority whose residents are affected by this proposed scheme, the reasons for this position are to;

- Allow support to local residents, communities and businesses affected by the scheme
- Encourage the mitigation of the impacts of the scheme in anticipation of a prolonged lead in period to acquisition of properties

### Question 2

**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.**

RMBC's response:

RMBC notes the criteria proposed for underpinning the EH scheme and consider it a reasonable proposal to mitigate exceptional hardship.

However, it is noted that this scheme relates only to owner occupiers (freehold or long leasehold) of residential property, small business (commercial) property owners with a rateable value of less than £34,800, or Agricultural business units. RMBC believes that this may prejudice against significant local businesses along the route of the proposed line that whilst not being within RMBC borough boundaries are significant local employers

The criteria for determining EH in terms of the scope of impact relating to the distance from the line lacks clarity, although the need to reflect differing local situations is recognised. For example;

- Higher sections of the route opening up consideration to properties further from the line.
- Commercial and residential properties and the relative weighting of impact for distance from the line

### **Question 3**

**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.**

RMBC's response:

The proposals for operating the EH scheme appear acceptable and suggest an appropriate fit with and augmentation to existing statutory provisions for blight in advance of a normal acquisition by CPO and an advance opportunity to claim exceptional hardship before the final route of the line and other scheme details are known, given the longer than usual lead in period for the development.

As the consultation documentation states that;

*An applicant would not be eligible for the Phase Two EHS if they bought their property at a time when they could reasonably have been expected to be aware of the Phase Two initial preferred route option.*

RMBC is firmly of the opinion that it is incumbent on DoT to ensure ongoing and comprehensive public information relating to the impacts of the scheme to inform local residents and businesses as a long term need prior to final determination of the route of the proposed line.

#### **8. Finance**

There are no direct financial implications associated with this paper.

#### **9. Risks and Uncertainties**

Most of the proposals included in the consultation paper include logical augmentation to existing statutory protection for residential and business owner occupiers for compensation from transport schemes.

If we do not respond to the proposals, there is a risk that our views are not taken into account and proposals that we disagree with are imposed upon potential EHS applicants.

#### **10. Policy and Performance Agenda Implications**

The Council has an obligation to respond to the consultation paper issued by the Department of Transport as representative of local residents and business owners, despite not having a qualifying interest.

## **11. Background Papers and Consultation**

Department of Transport Consultation Paper – High Speed Two: Exceptional Hardship Scheme for Phase Two

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