Note from HS2

Petitioners: Richard and Colin Smith No. 59 – AP 1-2

The Committee wanted clarification on the petitioners’ mortgage issues in relation to compensation/purchase.

HS2 Response: The proposed reconfiguration of Richard and Colin Smith’s farm will include payments towards the costs by HS2 in advance of Royal Assent during a period in which there is no certainty of Parliamentary approval to the scheme. In addition to HM Treasury requiring a business case, the arrangements for making an advanced payment are secured by either

1. The purchase by agreement of some of the land required for the project, or
2. Against an alternative property.

It is essential that the land the Promoter acquires by agreement (or land over which security is provided) is free of a mortgage for the following two reasons:-

• The land provides security for the Promoter in making payments to the owner in advance of Royal Assent and acquisition under the powers of the Act; and

• If the land is subject to a mortgage, the monies must be paid to the mortgage company (until the loan is paid down) meaning the funds are not available for Messrs Smith and Smith as planned to use for the reconfiguration of their farm buildings.

This approach is set down in statute and applies to all acquiring authorities when making advance payments under the compensation code. What happens in practice and has worked well in Phase 1, is that the mortgage company releases the mortgage over the land needed for the railway and takes its charge against the retained land.

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