**Title:** Compulsory Purchase Order (CPO) Powers for the Secretary of State for Regeneration and Business and Community Facility Relocation - HS2 Hybrid Bill

**IA No:**

**Lead department or agency:** Department for Transport

**Other departments or agencies:** HS2 Ltd

### Summary: Intervention and Options

**Cost of Preferred (or more likely) Option**

<table>
<thead>
<tr>
<th>Total Net Present Value</th>
<th>Business Net Present Value</th>
<th>Net cost to business per year (EANCB on 2009 prices)</th>
<th>In scope of One-In, Two-Out?</th>
<th>Measure qualifies as</th>
<th>RPC Opinion:</th>
<th>RX Opinion:</th>
<th>NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>NQ</td>
<td>NQ</td>
<td>NQ</td>
<td>No</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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**What is the problem under consideration? Why is government intervention necessary?**

HS2 Phase One is a significant opportunity to make transformative, potentially regenerative changes to areas around its stations. The expectation is that this regeneration and development will be led by the relevant local authorities. However, the scale of regeneration and development planned may not be delivered by local authorities and the market in isolation as there are historical examples where this has not occurred. Further, the construction and operation of HS2 will displace businesses and community facilities along the line of route, some of which may have difficulty relocating due to being in highly site specific locations. Therefore, government intervention may be required to ensure regeneration, development and relocation occurs.

**What are the policy objectives and the intended effects?**

To maximise the local economic output and employment outcomes from investment in HS2 Phase One by ensuring:

(a) Local regeneration and development schemes around HS2 stations and depots are delivered

(b) That, as far as possible, businesses and community facilities displaced by the construction and/or operation of HS2 can be relocated rather than extinguished

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Do Nothing - This would place reliance on local authorities to facilitate regeneration and development schemes. There could be risks with this as issues with land fragmentation could prove challenging and local authorities may not have the skills, experience or resources to facilitate this. So this could result in the full benefits of regeneration not being realised and more businesses suffering extinguishment than would otherwise be the case.

Option 1 - Secretary of State to have Compulsory Purchase Order (CPO) Powers for Regeneration and Business Relocation in the Hybrid Bill (preferred option) - Would ensure acquisition of land for regeneration and business relocation in cases where Local Authorities cannot use their own CPO Powers. The existence of these powers alone could incentivise land owners to reach agreement on redevelopment and relocation options as the Government now has recourse to acquire the land compulsorily.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: 03/2020**

**Does implementation go beyond minimum EU requirements?**

<table>
<thead>
<tr>
<th>Micro</th>
<th>&lt; 20</th>
<th>Small</th>
<th>Medium</th>
<th>Large</th>
</tr>
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<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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</tbody>
</table>

**Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.**

**What is the CO2 equivalent change in greenhouse gas emissions?** (Million tonnes CO2 equivalent)

Traded: NA

Non-traded: NA

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: [Signature]

Date: 25/11/13
Evidence Base (for summary sheets)

Introduction

1. This impact assessment considers the introduction of Compulsory Purchase Order (CPO) powers for the Secretary of State for two purposes in connection with Phase One of HS2:
   - Regeneration and Development
   - Business and Community Facility Relocation

Background

Regeneration and Development

2. HS2 is a significant opportunity to make transformative and potentially regenerative change to areas around HS2 Phase One stations and sites. The scope is huge as Phase One of the scheme alone connects two of the UK’s largest cities – London and Birmingham. As such the Government is looking to deliver the greatest possible level of local economic growth from the very significant investment it is making in HS2. In support of this the Government wishes to ensure that local regeneration and development schemes around HS2 stations and depots are delivered. The aim is for developments around the areas of HS2 stations that will provide extra jobs, growth, housing and offices and make investment easier to attract in those areas.

3. The current economic case for the scheme does not take into account the impact that HS2 stations will have on the surrounding area (i.e. assumes fixed land-use). Further work is being taken forward by HS2 Ltd to examine the potential for additional impacts resulting from land-use change around HS2 stations and it is due to be published next year.

4. To get a sense of the scale of the regeneration and transformative potential of HS2, the table below lists the proposed stations for Phase One along with a high level overview of the development potential in that area according to the HS2 Appraisal of Sustainability. There are also other draft area plans produced by local authorities and other stakeholders outlining development plans as a result of HS2.

Table 1 – Development potential around proposed HS2 Phase One stations

<table>
<thead>
<tr>
<th>Proposed HS2 Phase One Station</th>
<th>Development Potential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Euston Station (London)</td>
<td>Potential for major mixed use regeneration at Euston above and around the proposed HS2 station and existing Network Rail station. HS2 Ltd estimate that additional employment could be in the region of 2,000 jobs through the creation of offices as well as retail developments. Some external estimates have suggested that this could be higher.</td>
</tr>
<tr>
<td>Old Oak Common (London)</td>
<td>The Old Oak area is already within the existing Park Royal opportunity area with significant plans for redevelopment and new employment opportunities. It is estimated that 20,000 additional jobs could be delivered by HS2 through the combination of office, retail and education spaces. In addition, housing provision</td>
</tr>
</tbody>
</table>

1 Economic Case for HS2, http://assets.hs2.org.uk/sites/default/files/inserts/S%26A%201_Economic%20case_0.pdf
3 Para 8.15.16, HS2 Appraisal of Sustainability, http://assets.hs2.org.uk/sites/default/files/inserts/hs2-aos-report01_0.pdf
Problem under Consideration

Regeneration and Development

9. As highlighted above, the expectation is that local authorities where stations are located will take the lead in maximising the potential benefits as a result of HS2. There is a risk however, that the maximum benefits of regeneration and development around stations and depots are not realised or in the worst case scenario may not be delivered at all.

10. To ensure regeneration and development schemes around stations go ahead, local authorities need to ensure there is appropriate provision of land in the surrounding vicinity of the station. In some cases, this could be achieved through commercial negotiation with landowners. There may however be barriers to achieving this, specifically in terms of obtaining the necessary land in the area for the proposed developments to go ahead. In particular,

   a. fragmented land ownership in the existing area, which may or may not have been exacerbated by the HS2 scheme. This could mean that negotiation with individual landowners may be too complex to gain access to the land required in timely manner

   b. single or multiple landowners refusing to sell the land required for any proposed regeneration or development scheme. This could be because they are aware that acquisition of their land is essential for a proposed regeneration or development scheme to go ahead and are therefore incentivised to hold out for as long as possible to achieve higher values for the purchase of their land. As a result, the expense of regeneration and economic development could also rise in this situation.

11. To surmount the barriers above, local authorities already have powers to compulsory purchase land within the boundaries of their area under the Town and Country Planning Act 1990. Under these powers, local authorities can acquire land compulsorily for the purposes of economic development and regeneration. This has a potential to resolve the issues identified above as it makes it easier for local authorities to acquire the necessary land as, when compulsory purchase powers are exercised, the land is purchased at the market value in a 'no scheme' state of the world.\(^\text{13}\)

12. Experience has shown, however, that local authorities may be reluctant to exercise their powers as they may not have the knowledge, experience or the resources to do so and opportunities for regeneration have been missed or not fully utilised (please see the examples of Luneside East and Rochester Riverside examples in paragraphs 20 and 21 below).

13. At this stage the scale of this risk is not clear as the Government's engagement with local authorities on regeneration and development on stations is still in its infancy at this early stage. This is expected to be much clearer as the scheme progresses and local authorities develop their plans and scope potential implementation issues.

14. Nevertheless, the potential risk could be significant as regeneration and economic development around Phase One stations alone is expected to support the creation of over 30,000 jobs\(^\text{14}\) with reports by Local Authorities pointing to even higher job figures (see Table 1 above). Any delay or deferral of these development schemes, either partially or wholly, could therefore represent a significant loss of opportunity to the area.

Business and Community Facility Relocation

\(^{13}\) The Operation of the National Compensation Code, Crossrail Information Paper, http://www.crossrail.co.uk/assets/library/document/originallb02operationofthenationalcompensationcode.pdf
\(^{14}\) Work commissioned by HS2 Ltd indicates that as many as 80,000 jobs could be supported by development around HS2 station sites, with 30,000 of these apportioned to phase one of the scheme (see Table 1). Studies carried out for local authorities point to even higher employment levels.
regeneration and development has been lost. These include regeneration and development schemes around Luneside East and Rochester Riverside.

20. Luneside East is a site in Lancaster with a long history of low-rent general industry and storage. A report by the Town and Country Planning Association\(^{20}\) notes that the regeneration potential was identified in the mid-1990s but it took until November 2006 for the Council to take full possession of the site. Despite a strong demand for housing in the area, the report suggests that the project appeared too daunting, with fragmented land ownership being one of the problematic factors. This could be viewed as an example of the coordination problem in economics where the ultimate objective of the regeneration scheme had the potential to benefit the area as a whole but there were difficulties associated with achieving cooperation from existing land owners who may individually lose out as a result of the development or may be incentivised to delay development to negotiate higher values for purchasing their land. In particular, these land owners are not incentivised to take into account the potential external benefits to regeneration and economic development; namely, agglomeration, increased competition and improved labour market participation.

21. Another example of missed regeneration opportunities is Rochester Riverside which is a site on the eastern edge of Rochester City Centre between the London-Dover railway line and the River Medway. The redevelopment of the site has been a longstanding objective, but despite several attempts the site is still undeveloped. A report by the British Urban Regeneration Association\(^{21}\) suggested that one of the reasons for this is that the local authority has not had the right experience or skills to negotiate successfully with private sector partners. Delays and previous unsuccessful discussions have led to a 'confidence gap' between private developers and the local authority.

22. It is also worth noting that there is evidence of a recent decline in local government appetite for pursuing CPOs. A report by Dickinson Dees LLP\(^{22}\) notes that the number of CPOs in 2009 was at its lowest for several years. The report suggests there is a risk that CPOs may drop off the agenda as a tool for delivering regeneration as local authorities may view the exercise of these powers as politically contentious and the process is often dependent on a culture and experience of using CPOs.

23. It is possible that local authorities may face similar challenges in relation to harnessing the significant regeneration opportunities offered by the HS2 scheme. The implications would be a delay in the delivery, or at the most extreme a loss altogether, of the full economic benefits that HS2 can provide at station sites. Despite local authorities having recourse to their own CPO powers, given the risk that they may be reluctant to exercise these powers if they are required to proceed with a development schemes, Government intervention can be justified as a backstop.

**Business and Community Facility Relocation**

24. A key objective of the HS2 scheme is to be a catalyst for economic growth through the creation of significant employment opportunities. It is expected that overall a significant number of jobs will be created through the construction and operational phases of the scheme\(^{23}\). As Table 2 acknowledges however, businesses will have to relocate as a result of the scheme which could have adverse employment impacts counter to the overall objectives of the scheme.

25. While experience of previous schemes suggest that the majority of businesses will successfully be able to relocate (see paragraph 17), it is possible that those businesses that are more novel or unique will have greater difficulty in finding suitable relocation sites. This makes it more likely that they will face total extinguishment with the associated potential adverse impacts to the economy described above.

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\(^{22}\) Compulsory Purchase Orders: A Review of Usage and Best Practice, January 2010

\(^{23}\) Socioeconomic Effects, Volume 3: Route Wide Affects, HS2 Phase One Environmental Statement.
34. It is also ambiguous whether local authorities are able to use their own CPO powers in existing legislation for the purpose of relocating businesses that would be displaced by HS2. These difficulties would be compounded by the fact that relocation must take place within a tightly defined time period to ensure a suitable site would be ready before construction of the scheme had commenced. Further, landowners on such sites could request rates well above the market value of the land in full knowledge of the lack of alternatives. Consequently, the difficulties with relocation under this option increase the risk that more businesses and community facilities would face total extinguishment with particular impacts on individuals through loss of employment, amenities and output to the economy.

35. As indicated in Table 2 above, on the assumption that 88% of employment successfully manages to relocate, there could be up to 1,010 jobs lost as a result of businesses directly displaced by the scheme with a further 380 jobs lost through indirect effects. These jobs will likely be lost because a part or the whole of a business has been extinguished as a result of the scheme. As such, under the National Compensation Code, the part of or the whole business which is being extinguished will have to be purchased outright by the Government. This is generally a lot more costly than the compensation paid to businesses for the costs associated with relocation.

Powers to promote Compulsory Purchase Orders for Regeneration and Business/Community Facility Relocation (the preferred option)

36. The preferred option is to have powers in the Hybrid Bill to enable the Secretary of State for Transport to promote Compulsorily Purchase Orders (CPOs) for the purposes of regeneration and business relocation in connection with HS2.

37. Powers to promote Compulsorily Purchase Orders are an established mechanism which enable acquiring authorities to compulsorily purchase land for purposes which Parliament has decided are in the public interest. The acquiring authority is often a Government Department, local authority or a body such as the Highways Agency and the application of compulsory purchase for these organisations are normally conferred by a specific Act of Parliament.

38. Even in cases where the acquiring authority is the Government (as in this case), the application of a CPO Power still requires a local planning inquiry to establish whether the acquisition of land is in the public interest (officially called a “public local inquiry”). This allows individuals affected by the acquisition to make representations to the inquiry and object to the acquisition or to seek changes to the way it is being carried out. The inquiry will reach a judgement on whether it thinks the acquisition should be carried out but ultimately the final decision is in the hands of the relevant Minister, in this case the Secretary of State for Transport. Furthermore, if the land is acquired under this procedure, any development conducted on that land, for regeneration or development purposes or to relocate a business or community facilities would still have to obtain planning permission through the usual procedure.

39. The CPO power for regeneration and development would in practice be used in association with stations and depots that are part of Phase One of the HS2 scheme. The CPO power for business relocation would allow the Secretary of State to promote a CPO in relation to relocating business or community facilities that face the prospect of extinguishment as a result of the HS2 scheme. This power is most likely to be exercised in cases where the business or community facility is novel or unique and has difficulty finding a suitable relocation site.

40. It is important to note that these are reserve powers that will only be used as a last resort if alternative options for relocating businesses and community facilities cannot be found or if it is evident that regeneration schemes are not progressing. Often, the existence of the credible CPO Powers themselves are enough to facilitate negotiation with local authorities or settle terms of commercial negotiation with

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businesses directly affected\textsuperscript{26} by the scheme is approximately 8,430\textsuperscript{27}. At this stage, we do not have detailed information about the businesses affected in terms of turnover, although this information will be collected as the scheme progresses. The impact on local areas in terms of employment will also need to consider the employment delivered directly by the scheme (in operating or maintenance roles) and the employment impact of development around stations which could mitigate the impact of business relocation in some areas.

48. It is expected that the majority of these businesses will be able to find suitable sites for relocation. According to the London Development agency, over 88% of businesses displaced as a result of London 2012 Olympics games were able to successfully relocate with 12% facing total extinguishment. If we adopt these assumptions for Phase One of HS2, this would mean that approximately 1,010 jobs could be permanently lost with an additional 380 jobs that could be lost indirectly through supply chains (see Table 1). The businesses and community facilities that are most at risk are those that are novel or unique and as such may have great difficulty in finding suitable relocation sites that allow them to continue operation.

49. These assumptions are highly sensitive to the percentage of businesses that successfully relocate and there is significant uncertainty with regards to how many of these jobs will be saved. It is expected that HS2 Ltd will provide support to businesses displaced by the HS2 scheme to find suitable relocation sites and as the scheme progresses more data can be gathered as on the number of businesses and community facilities that are of greater risk of not being able to relocate through engagement with the affected organisation.

50. In any event, as specified in paragraph 8, under the National Compensation Code, the Government (as the promoter of the scheme) would have to provide compensation for any costs and expenses of relocating. If the business or community facility cannot reasonably be relocated, the Government would have to pay for total extinguishment which would amount to paying for the total market value of the business or community facility.

51. At this stage, it is difficult to provide reliable estimates of the costs to the Government of compensating the affected businesses as claims under the National Compensation Code for relocation costs or for extinguishment are complex and not enough information is available about the affected businesses themselves.

\textbf{Option 1: Powers to promote Compulsory Purchase Orders}

\textbf{Regeneration and Development}

\textit{Benefits}

52. The key benefits of CPO powers for regeneration and development would be greater certainty that regeneration and development around station sites can be delivered within suitable timescales to maximise the economic and productivity benefits of the scheme. The benefits could also include delivering a greater level of development around stations than in the counterfactual to maximise the overall benefits arising from the HS2 scheme (some opportunities might not be taken forward by the local authority alone, see paragraphs 20 and 21).

53. The expected practical utilisation of these powers is currently anticipated to be fairly limited as they are reserve powers. Regeneration and development around stations will be carried out by the local authority in the first instance with intervention by central Government through the exercise of these powers only required in rare instances.

\textsuperscript{26} Directly affected businesses include those that are displaced by the exercise of compulsory purchase powers to obtain the land required for the construction and operation of HS2. This does not include businesses in the surrounding area that may also be affected temporarily or permanently as a result of the construction or operation of the scheme (e.g. due to amenity and isolation affects). An assessment on the impact of these businesses has been carried out in Volume 3 of the Environmental Statement for Phase One.

\textsuperscript{27} Socioeconomic Effects, Volume 3: Route Wide Affects, HS2 Phase One Environmental Statement.
58. As indicated in Table 2 above, the total estimated number of jobs in businesses directly affected by
the scheme are approximately 8,430 and an assumption can be made following the experience of the
London Development Agency (see paragraph 17 above) that 12% of the jobs (around 1,010) are
potentially lost on the route. Given the uncertainty in the number of these jobs that could be relocated
by efforts on the part of the businesses, it is difficult to say how many of these jobs reside in
businesses which will need the exercise of the CPO powers on part of the Secretary of State. As
such, we are uncertain about the scale of potential impact of the CPO powers.

59. Similar to regeneration, the existence of the CPO Power would bring affected landowners and local
authorities to the negotiating table more quickly in the areas where suitable relocation sites have
been found. Again, this would be to avoid the future expense and hassle associated with a planning
inquiry in which the Secretary of State for Transport would be the ultimate decision maker. As a
result, this may help facilitate the more timely relocation of these organisations which may help
reduce the number of businesses and community facilities extinguished by the scheme – expectedly
without the actual exercise of the powers. This has the potential to reduce the costs of developing
the scheme as fewer costly extinguishments would be required.

60. It is difficult to say at this stage to assess how many businesses or community facilities could be
aided by the presence of the CPO Power given the varying nature and circumstances of the
organisations affected by the scheme and the early stages of attempting to source alternative sites.
The powers are likely to be used where businesses are novel or unique and suitable sites cannot be
found in the local area through a reliance on commercial negotiation alone.

61. If a number for potential jobs that could be saved from creating these powers was available, we could
potentially monetise them by using an average gross value added (GVA) figure proxied by average
salaries. So the monetised benefit of the scheme would be equal to the total number of jobs saved
multiplied by the average salary in the UK.

62. It is possible as well that costs to the Government would be saved as more businesses would be
able to find relocation sites and would not face total extinguishment. When total extinguishments
occur, under the National Compensation Code, businesses have to be purchased outright. Any cost
saving to the Government as a result of enabling more businesses to find relocation sites assumes
that purchasing the business outright is more expensive than relocating them. At this stage, not
enough information has been gathered about the operational details of the businesses affected (such
as turnover and profitability) and therefore assessments about the total costs of compensation
cannot be made. More information on this will be gathered as the Bill progresses through Parliament
through greater engagement with those businesses affected.

Costs

63. Like the CPO Power for Regeneration and Development, if the Business and Community Facility
relocation power is exercised then a Public Local Inquiry may be triggered. See paragraph 55 and 56
for a description of the procedure and the associated expenses. At this stage we do not have an
indication of how often the power would be exercised but as indicated in paragraph 58 above the
existence of the CPO power alone often negates the need to exercise it.

Key risks and assumptions

64. We have assumed that no additional Public Local Inquiries are required as a result of the powers as
they are reserve powers only intended to be used as a last resort if negotiations fail to achieve the
desired outcomes in the appropriate period of time. Given the early stages in the HS2 Scheme
complex negotiations with Local Authorities and businesses affected by the scheme are in their
infancy and therefore it is difficult to assess whether and where these CPO Powers will need to be
exercised at any future stage.

Direct costs and benefits to business calculations (following OITD methodology)

28 Directly affected businesses include those that are displaced by the exercise of compulsory purchase powers to obtain the land required for
the construction and operation of HS2. This does not include businesses in the surrounding area that may also be affected temporarily or
permanently as a result of the construction or operation of the scheme (e.g. due to amenity and isolation affects). An assessment on the impact
of these businesses has been carried out in Volume 3 of the Environmental Statement for Phase One.
29 Socioeconomic Effects, Volume 3: Route Wide Affects, HS2 Phase One Environmental Statement.
Summary and Implementation Plan

73. In summary, the preferred option is to pursue powers in the Phase One Hybrid Bill to enable the Secretary of State for Transport to promote a Compulsory Purchase Order for the purposes of regeneration and business relocation. This is justified on the basis that CPO powers for the Secretary of state would allow for

   a. greater certainty that the regeneration objectives around HS2 stations will be delivered
   b. the best possible chances of finding suitable land or premises for business relocation given that consideration of sites in different local authorities may be required

74. These powers would be available upon Royal Assent of the Phase One Hybrid Bill. The review date of this impact assessment is therefore set for around March 2018 – three years after the target Royal Assent date of the Hybrid Bill. This would mean that construction is underway and may mean that the efficacy of the provisions within the Bill so far can be assessed internally as part of the policy development process for the Phase Two Hybrid Bill. Further, in line with practice, these powers would be formally reviewed as part of the Post-Legislative report published 5 years after enactment of the Bill which would be March 2020.