

Policy Statement

HIGH SPEED RAIL: INVESTING IN BRITAIN'S FUTURE

RESPONSE OF THE NATIONAL FARMERS UNION

POLICY SERVICES DEPARTMENT, AGRICULTURE HOUSE, STONELEIGH

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HIGH SPEED 2: RESPONSE OF THE NATIONAL FARMERS' UNION

Introduction

The National Farmers' Union (NFU) welcomes this opportunity to comment on the Government's consultation on the principle of a high speed rail network linking London with Birmingham, Manchester and Leeds. The NFU represents over 55,000 professional farm businesses in England and Wales involving an estimated 155,000 farmers and partners in the business who have an interest in recognising and valuing the multiple benefits that their land provides, especially food production. Our membership manages over 70% of the agricultural area in England and Wales. Therefore the NFU is well placed to comment on the High Speed 2 proposal given that the majority of the route between the urban termini will be crossing farmland, causing significant disruption and impact on many farm businesses, as our submission will demonstrate.

As part of preparing this representation we have consulted widely with our membership, both on and off route. It is clear from our discussions that farmers and growers are extremely concerned by the Government's proposals, the uncertainty it creates as well as the long term damage to business livelihoods. Farmers and growers recognise the importance of investing in the nation's infrastructure to ensure cost effective communication and transfer of goods and services within and beyond our borders. The NFU has long argued that inadequate Government investment in the agricultural infrastructure and research capability has undermined our domestic food security and productivity – we are pleased that this shortcoming has now being recognised by the Coalition Government.

However, public investments should offer a positive return: the NFU questions the value of the HS2 proposal. The cost/benefit ratio offered by the HS2 proposal is poor. Coupled with the significant disruption and damage caused to 100's of farm businesses along the HS2 route, we found little support for this proposal. Should the Government proceed with HS2 (and we urge that a definitive decision be taken to remove the blight on business investment and livelihoods) we have set out in this submission proposals for a minimum standard of construction and compensation which should be contained in the HS2 Hybrid Bill.

General Comments

The NFU response is based on the following key considerations:

Impact on Agriculture

The NFU, farmers and growers have argued successfully that Government should provide a positive framework for food production in England and Wales. This reflects in the Government's priorities for agriculture as set out in Defra's Business Plan, which also recognises the important role played by farmers in protecting and managing the countryside (recognised in almost 70% of the countryside now being in some form of agri-environment scheme). Our representation therefore focuses on the impact on the agricultural industry in general and especially the very significant impacts at an individual scale, highlighted in a series of case studies.

Uncertainty

Since the announcement of the proposed route there has been a great deal of uncertainty. This has led to blight. Although the government introduced a non-statutory Exceptional Hardship Scheme, this has not fully reflected the loss that people and businesses have suffered. The true costs of this must be reflected in an equitable compensation scheme and those costs taken into account in the total cost benefit calculation

It should also be noted that owners and occupiers along the route are already suffering through unrecognised blight due to the current uncertainty of the project. Farmers, including agricultural tenants, are struggling to make decisions about investment, which would improve their productivity, as they cannot plan until they know the future status of the land. Diversified activities are also suffering, for example one farmer who runs a wedding event business has seen bookings fall for his enterprise as couples are misinformed about when the venue might close, should the project go ahead, (see case study 4).

The overwhelming message from our members is that the Government must swiftly resolve by 31 December 2011 to either implement the HS2 scheme or remove the proposal permanently. A decision to delay this proposal would perpetuate uncertainty and business blight for hundreds of farm and horticultural businesses. Those affected need to be in a position where they can make decisions about their business, based on a certain future.

Best use of government funding

The NFU notes that the business case for the HS2 route is poor, offering a benefit to cost ratio (BCR) of 1:1.6. Other infrastructure projects, such as the widening of the A14, which demonstrate better value for money through a higher BCR, have recently been cut as a consequence of the Comprehensive Spending Review. Other projects go unfunded even where they have a higher BCR. An example of this, relevant to agriculture and horticulture, are flood and coastal defence projects, which regularly have BCRs of 13:1 and higher, but still go unfunded. It appears therefore inconsistent that projects offering a far greater benefit are postponed or refused, while HS2 could be approved.

The investment required for the initial route is significant (estimated £17Bn). Investment on this scale requires careful consideration. The NFU believes that alternative ways of facilitating effective communication may be a more efficient way of investing in the UK's infrastructure. This could include upgrading and increasing capacity of existing mainline rail, as well as alternative ways of improving communications (such as a high speed broadband network open to rural and urban businesses). This would result in a more equitable distribution of benefits across the economy, wherever businesses are located.

Consultation Process

The consultation exercise is focused on the response to seven questions. These questions are framed in such a way as to elicit a positive response with 6 out of the 7 starting with the phrase "Do you agree....?" This bias is further reinforced by highlighting what are alleged to be the advantages of HS2 as in Question 1 which suggests a 'strong case' to support economic growth or in Question 2 that the 'Y' network provides the best value for money. All questions should have been worded so that they were neutral in tone.

In section 6 responding to the consultation the second paragraph starts “The questions on which the Government is seeking views are set out below.” This implies any other issue raised will not be considered.

It is unfortunate that in March 2010 the Government announced its preferred route. The implication being this was not a genuine consultation exercise but rather an explanation of how the decision was arrived at.

Set out below is the response to each of the 7 questions asked as part of the consultation exercise

Q1 Do you agree that there is a strong case for enhancing the capacity and performance of Britain’s inter-city rail network to support economic growth over the coming decades?

A well-functioning strategic transport network is central to any productive economy, but particularly for those involved in agriculture, an industry which relies on the immovable resource of land. As UK farmers’ productivity increases, improved transport networks are required to aid competition with other countries’ products, and also to reduce transport emissions. These dual purposes are highlighted in the Government’s recent Foresight Report¹, as food security and emissions awareness both move up the political agenda.

Any investment in infrastructure is positive for the UK economy, but the impact of a high speed rail network is questionable when compared to other investments. Such an investment will largely benefit those who operate within the city, as well as those who are able to operate by train. Whilst the economic case for High Speed 2 highlights that road users on the M1 will also benefit from investment in HS2 (as some road users change transport mode), the rest of the country will struggle to see any benefit.

Agriculture is an area where increased productivity has been achieved through increased specialisation in farms. Due to the geography of the British Isles, there has been an east/west split in farm types with livestock farms being based largely in the rich pastures of the west of England, and combinable crops being grown in the flatter, sunnier east. This geographical split enables land to be used for the most appropriate use, however it increases the amount of transport, as grains have to be moved north and west to feed the livestock, as well as further east for export.

Given the relatively low BCR produced using the central economic scenario for High Speed 2 (at 1.6), it is a concern to the NFU that other infrastructure projects, which may aid competitiveness in UK agriculture, may go unfunded as a result. A recent example is the decision taken to axe the long mooted widening of the A14, an important west to east route, which closes the distance between the cropping heartlands of England in Cambridgeshire and both the livestock farms in the west and the shipping ports in the east. Ironically this decision was taken based on a BCR of 2.1², which was considered too low, however is substantially higher than the estimated BCR for HS2 of 1.6. Whilst

¹ Foresight Report, Department for Business Innovation and Skills, Synthesis C5

² http://www.highways.gov.uk/roads/documents/SR10_Business_Case_-_A14_Ellington_to_Fen_Ditton.pdf

this is simply an example, it is likely that many other infrastructure projects will go unfunded as a result of the funding required for High Speed 2.

Q2 Do you agree that a national high speed rail network from London to Birmingham, Leeds and Manchester (the Y network) would provide the best value for money solution (best balance of costs and benefits) for enhancing rail capacity and performance?

Due to information given in the consultation, which relates largely to only phase one of the high speed project (London to Birmingham) the NFU has answered Q2 based on the case for high speed rail between London and Birmingham only.

It should also be noted that the presentation of the economic case does not allow for a proper appraisal of options. A full assessment requires detailed analysis of all possible options, which was not provided in the consultation documents.

In terms of the information which was presented, it is questionable whether High Speed 2 provides a high enough BCR to justify the expenditure when it is compared to other transport and infrastructure projects. Also the accuracy of the assumptions used when estimating the BCR are debatable.

Within the benefits and the costs set out in the economic case, presented alongside the main consultation document, there are number of assumptions made which appear to be unrealistic; specifically, assumptions on valuation of time, use of time whilst travelling, and passenger demand.

The NFU would also like to draw attention to the impacts on land holders, both owners and tenants, who will be affected by the building of the line. Whilst the cost of land has been considered in the economic case, the cost and impact on farming businesses has not been accounted for. These costs need to be properly considered in order for the Secretary of State to make the correct decision, based on all available information. The NFU accepts that the price of the land taken is included in the economic case, and that land holders will be compensated for this. However, such a payment rarely covers the **value** of the land and buildings to farmers (as these cannot be substituted as simply as other business capital) or the wider rural economy.

Whilst the high speed railway line may only take a small amount of land out of the farm business it may affect the farms profitability as overheads will have to be spread over a smaller area. Moreover the loss of economies of scale can have further impacts on the ability to gain and retain contracts, as well as the decision to invest.

Further High Speed 2 is already having an impact on farming businesses. Landlords letting land on Farm Business Tenancies are only letting land for short terms rather than 10 to 15 year terms were tenants actually have some security and can plan there farm business for the future.

Case study 1 sets out the specific business impacts that High Speed 2 has on one of our members. It demonstrates that not only will he lose the land, but faces extra transport costs if he buys or rents land elsewhere, or potentially a fall in the price paid for his product. Recently made investments will also not achieve their expected payoff.

This example shows that the true cost to the economy will be far higher than simply the price of the land taken out of production as farms lose economies of scale, and in some cases will cease to be profitable businesses.

Access to land via bridges and tunnels is another area where the costs have not been fully considered. There is no indication on where access might be placed on the current set of maps, and there is no estimate of how many of these bridges and tunnels High Speed 2 expects to incorporate. Without access to land separated by the railway, farmers will, in some cases, be unable to farm these parcels of land. In other cases farmers may face a lengthy round journey on rural roads, which will increase costs for them as well as increasing congestion and risk of accidents for other road users as more, large, farm vehicles, such as combine harvesters, take to the roads.

Case study 2

Access will be the principle issue for one farmer who currently gains entry to his farm using the concrete tracks on an old airfield. Whilst the farmer will still retain access to the farm using a narrow winding rural lane, with a number of tight bends, using such a road to transport agricultural machinery will increase the likelihood of an accident and may interfere with other users enjoyment (e.g. horse rides and cyclists). There will also be questions as to whether agricultural supplies and output will be prevented from using the restricted access.

Case Study 1

The NFU has provided a case study which demonstrates the impact of taking a small amount of land out of production. The full case study can be read in the annex. The farmer in question expects to lose roughly 17 acres of land to construction of the railway, approximately 6 per cent of the farm. The farm is a mixed cropping farm, with profits largely driven by a large contract for potatoes, which takes up about a third of the area of farm. To achieve the best yields, and maintain environmental standards, the farmer rotates the potatoes on a 1 in 5 year basis. In order to do this he has to rent land from nearby farms. The construction of High Speed 2 would create access problems both for vehicles and irrigation from the existing on farm reservoir.

Due to the loss of the 17 acres, plus the loss of fields near by which he often rents, the farmer will have to either incur extra transport costs by renting land further afield, or reduce the size of the potato contract. If he took the latter option, it is possible that he will be offered a lower price per tonne for his potatoes as the buyer will lose out on their economies of scale.

The farmer has also made recent investments, in a reservoir and a £80,000 potato harvester. The decision to make these investments was taken as the farmer was sure that he would not be selling any of his land. Should he have expected to have land compulsory purchased, he may not have made the same investment decision.

This case study demonstrates the wide reaching impacts of taking land to build the new high speed line, with cost impact that extend far beyond the simple cost of land.

Case study 2 provides an example of a farm where the main access will be lost, increasing farmer costs and the risk of accidents on local lanes.

In both examples it is clear that the cost of land is not a perfect indicator of the economic value which would be lost should the project go ahead. Any representation of the economic costs should include these costs, just as the benefits include wider benefits to the economy.

In conclusion, it is impossible to respond to the question of whether the Y network offers the best value for money. The Government has not provided enough information of an appropriate level of detail to enable consultees to respond intelligently. Many costs also appear to be underestimated,

including the impact of taking land out of production and fragmenting farm businesses.

Q3 Do you agree with the Government's proposals for the phased roll-out of a national high speed rail network, and for links to Heathrow Airport and the High Speed 1 line to the Channel Tunnel?

The Government has failed to properly engage and consult with the public north of Birmingham who may be affected by the Y network. Questions which relate to the whole Y network have been included in this consultation, which is said to consider only the London to Birmingham part of the line. It is notable that the HS2 'road shows' have been held along the published route but have not been held on the proposed northern extensions of the route – our soundings with NFU members indicate considerable variation in understanding amongst farmers as a consequence, many believing that the western route to Manchester will use the upgraded west coast mainline. Should the Government wish to consider this line as a part of a phased roll out, all phases should have been consulted on simultaneously.

Q4 Do you agree with the principles and specification used by HS2 Ltd to underpin its proposals for new high speed rail lines and the route selection process HS2 Ltd undertook?**Principles and specification**

The NFU does not have a specific view on the principles and specification proposed for HS2. However there is concern that the design speed of 250mph means there is little flexibility to adjust the route to meet local circumstances.

Route selection process

As set out in the general comments at the beginning of this response, the NFU is concerned that the consultation process started once the Government had selected their preferred option. This runs counter to the whole ethos of current Government policy to involve communities early in the decision making process, rather than presenting the community with a fait accompli.

The NFU is aware that there is considerable debate about the demand forecasts which underpins the case for High Speed 2. If the demand is less than forecast then improving the existing rail network may be the solution. There is a concern that the company set up to promote the case for HS2 (HS2 Limited) has also assessed the relative benefits of upgrading the existing railways. The section in the consultation document 'Alternatives to High Speed Rail' has been written to down play the benefits of upgrading the existing system as compared to building a high speed line.

An independent assessment of the alternatives, other than by the promoting company would have given greater confidence in the conclusions.

Q5 Do you agree that the Government's proposed route, including the approach proposed for mitigating its impacts, is the best option for a new high speed rail line between London and the West Midlands?

No comment on the route.

On the issue of mitigation, not enough detail has been provided in order for a fair assessment to be made.

Q6 Do you wish to comment on the Assessment of Sustainability of the Government's proposed route between London and the West Midlands that has been published to inform this consultation?

The appraisal of sustainability process has adapted the four sustainable development priorities from the UK Sustainable Development Strategy: Securing the Future, and used these to form the overarching structure for considering sustainability impacts. One of these is sustainable consumption and production, which includes an objective to maintain and enhance land resources - which are defined as agricultural land, mineral resources and green belt.

The UK Sustainable Development Strategy: Securing the Future relies on the Strategy for Sustainable Farming and Food: Facing the Future to inform the debate on agriculture. This strategy sets out how industry, Government and consumers can work together to secure a sustainable future for farming and food industries, as viable industries, contributing to a better environment and healthy and prosperous communities. In this document, one of the key principles for sustainable farming is to sustain the resource available for growing food and supplying other public benefits over time, except where other land uses are essential to meet other needs of society.

The Appraisal of Sustainability fails to fully consider the impacts HS2 would have upon the sustainability of food and farming and fails to convince that, in the case of HS2, other land use is essential to meet other needs of society. In doing so, the appraisal offers only a superficial assessment of the agricultural impacts and no detail on the significant impacts on the hundreds of full-time farm businesses that lie along the HS2 route.

The sustainability appraisal only considers the impact in terms of distance that the railway will pass through grade 1 and 2 agricultural land and fails to consider other farmland or the implications for food production. For example, access to irrigation (as demonstrated this season) has a significant impact on the productivity and value of farmland; the appraisal fails to consider such subtle but important details. The appraisal is also inconsistent with planning policy guidance and long standing Government policy, which defines the Country's "best and most versatile land" as Grades 1, 2 and 3a of the agricultural land classification; grades 1 and 2 together account for approximately 21% of farmland in England and grade 3a for approximately 21%. This is the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals. The implications for the delivery of future crops should be considered by the Appraisal of Sustainability for all agricultural land, especially the best and most versatile.

It is not clear where the land take will include a 25m buffer on each side of the track and so it is not possible for land owners to accurately calculate the impact construction would have on the viability and long term sustainability of the farm business. It is also unclear as to whether these buffers will be planted with trees to screen the railway as leaf fall is yet to be assessed. If it is deemed that trees are not suitable we would argue that the land taken by the buffer would be better utilised under agricultural production.

Q7 Do you agree with the options set out to assist those whose properties lose a significant amount of value as a result of any new high speed line?

The NFU proposes that action is taken on two areas, compensation for the blight caused by the demarcation of the High Speed 2 route and should the Government decide to proceed with the proposal, a comprehensive package of premium compensation for compulsorily purchased land and buildings along with a binding duty of care for construction works.

Blight

We believe that the Government must assist those who will have properties and businesses that will lose a significant amount of value due to the new high speed line. It is well known in practice by professionals that compensation for blight does not meet the loss of value that a property and the surrounding land and area will suffer. The purpose of a blight notice is to compel the authority to purchase land in advance of their compulsory powers in order to mitigate hardship.

It is very important that whichever of the schemes is chosen that it applies to owner-occupiers of agricultural units as well as residential owner-occupiers. The new scheme must apply in the same way as a blight notice under section 158-160 of the Town and Country Planning Act 1990.

It is very important that the Government takes action to introduce a scheme to ease the effects of blight and acts on the issues it has raised in the consultation document (Appendix A), which are:

- to try to enable the property market to function as normally as possible by introducing a scheme;
- it must make sure that compensation will be paid fairly; and
- to encourage people to stay in their homes and villages.

The Government can only avoid having to buy up large numbers of properties if mitigation methods are put in place and carried out effectively.

In the consultation three different schemes being additional discretionary arrangements to support affected property owners have been set out:

- Option 1 A Hardship Based Property Scheme
- Option 2 Bond Based Scheme
- Option 3 Compensation Bond Scheme

An Interdepartmental Working Group on Blight, in which the NFU participated, looked at the effects of blight and compensation provisions in detail and highlighted two main points that needed to be guaranteed:

- Owners must be adequately compensated if their property is adversely affected by the proposed development; and
- The property market must continue to function properly to enable owners to sell and buy property.

The working group also drafted a possible Property Purchase Guarantee and Compensation Scheme, which is actually very similar to the Bond Based Scheme put forward as Option 2 in the consultation.

This suggested that the scheme could operate as follows:

- The unaffected Open Market Value (OMV) of the property
- A premium of 10% of the OMV (Home Loss payment)
- A new bond premium (more than 1% less than 100% of the OMV);and
- Compensation for various costs associated

Under this scheme it was stated that owners of properties that may be affected by the proposed development could demand from the acquiring body a fully transferable guarantee that any future loss of value would be compensated in full one year after the development is completed. The compensation would not be less than the amount stated in the guarantee.

The Working Group argued that the property purchase scheme devised by Central Railway Limited (CRL) came closer than any other to addressing the concerns highlighted. The scheme guaranteed to current and prospective property owners that their investment in their property would not be adversely affected by the proposed railway. The value of the property is guaranteed at some time in the future by a legally enforceable agreement. It allowed property to be sold with this guarantee in place at or around unaffected market value. The working group concluded that a scheme which offers a guarantee of future value, and possible enhanced value, for a property which is statutorily blighted can serve to encourage the continued operation of the local property market.

Taking the above into account the NFU would propose that the only scheme that HS2Ltd. should look into in more detail is the Bond Based Scheme.

Compulsory Purchase and Compensation

Since the announcement of High Speed 2 the NFU has been working closely with the CLA and CAAV regarding the reforms needed under the present Compulsory Purchase Law and Procedure. It became apparent very quickly that there are certain areas which are not covered satisfactorily under the present compulsory purchase and compensation legislation. It was highlighted that persons affected by any proposed procedure are not treated fairly and not compensated fully for their loss.

The NFU believes that a new procedure is needed to ensure just and equitable treatment, especially for major infrastructure projects such as High Speed 2 which present major disruption for individual businesses in return for a wider benefit to the economy and society.

Duty of Care

To achieve this there has to be a statutory “Duty of Care” for claimants and so those acting under a Compulsory Purchase Order must have a duty of care and this has to be backed up by an independent adviser who can make recommendations and apply penalties. We feel that the duty of care has to include the following:

- Duty to consult before and during acquisition;
- Duty to consult with land managers who will remain in situ after the completion of the scheme to agree a wide range of accommodation works;

- Duty to act fairly;
- Duty to pay promptly;
- Duty to provide for an independent person and an effective dispute resolution;
- Duty to minimise impact on claimants' interest;
- Duty to indemnify claimants against losses caused by acquirers agents, contractors and sub-contractors; and
- Duty to maintain aftercare and contact details for on- going management issues.

As stated above, and highlighted already when meeting HS2 Ltd in January 2011, this duty of care has to be enforced. The Government should appoint a suitably qualified independent person to ensure fair play and compliance.

Code of Construction Practice

Compliance should be achieved by a Code of Practice which has clear enforcement procedures that are required to regulate the conduct of acquisition and construction works. We expect HS2 contractors should comply with (as a minimum) the "Code of Construction Practice" followed by HS1 (Channel Tunnel Rail Link). This set out measures and objectives that the Code of Construction Practice that had to be applied throughout the construction period; the main aim being to maintain satisfactory levels of environmental importance and to limit disturbance from construction activities. The following are some of the specific areas that were covered and are particularly important to agricultural land and our agricultural members.

- General site operation:
 - a. Working hours;
 - b. Layout and site; and
 - c. Appearance.
- Dust, Odour and exhaust emissions;
- Handling, storage and disposal of soil, spoil and waste;
- Agricultural resources; and
- Landscape and restoration.

In the Code of Construction Practice an Environmental Management Plan was drawn up covering ten specific areas. In particular this Code, under Agricultural Resources stated that the main objective was that works would be carried out in such a way as to protect best and most versatile land from irreversible damage and to ensure that, where such land is being developed, adverse effects arising from construction activities are contained and limited.

There was a general provision to obtain approval of a qualifying authority of construction arrangements for the handling of re-useable spoil and top soil. This has to be a priority to be agreed again, especially as the consultation highlights at 5.84 the potential sustainable reuse of spoil to form noise bunds and landscape screening.

Alongside the Construction Code of Practice was an Agricultural Management Plan which set out policy in relation to the use and restoration of the best and most versatile agricultural land. Lessons need to be learnt from HS1, including, no extra land than is needed for the line must be acquired. On

the HS1 line the area of land taken was 858 hectares and only 350 hectares was required for the railway and landscaping.

Further, it stated that the management plan would adopt appropriate standards in the Code of Good Practice for the Protection of Soil. In particular, it highlighted that the following had to be addressed:

- Proposed destination of soils stripped from best and most versatile land; and
- Appropriate restoration and aftercare measures on agricultural land.

Measures for during construction works were also agreed including:

1. The acquiring body to comply with approved guidance notes whilst undertaking work on agricultural land;
2. To arrange for work areas to be fenced adequately and for access across or around construction works for livestock and machinery to be provided where necessary;
3. To take appropriate steps to protect livestock housed or grazed adjacent to the works;
4. To arrange for top soil mounds to be kept free from excessive weed growth;
5. Upon identification of possible pest infestation, injurious weeds or diseases, to take measures to prevent their transfer to adjacent land;
6. To identify locations of known carcass burial pits; and
7. Where works are temporary, it is very important that it is arranged for water supplies for irrigation and livestock to be maintained by the use of temporary piping and troughs or by the provision of temporary storage facilities in water bowsers.

It is vitally important that all of the above measures that were outlined under Agricultural Resources are implemented and adhered to during the construction phase of HS2.

The following objectives were highlighted under the other categories

General site operations: to produce and implement an area management plan to include details of the following:

- Hours of working;
- Screening of working sites;
- Uses of artificial lighting;
- Certain storage sites; and
- Construction camps.

Dust odour and exhaust emissions:

- to carry out the works in such a way that emissions to air of dust and pollutants including odour are limited; and
- that Best Practicable Means are employed so as to avoid the creation of a statutory nuisance.

Handling of disposal of spoil and waste:

- to carry out works in such a way so that 'as far as reasonably practicable, spoil arising during the construction which is acceptable will be used in engineered fills for the construction of the railway in mitigation work such as noise bunds and landscaping.; and

- that the disposal of waste including surplus spoil will be managed to maximise the environmental and development benefits from the use of surplus material.

Landscape and restoration:

- To carry out construction works so that as far as reasonably practicable disturbance to the landscape is contained; and
- limited and restoration proposals are agreed and implemented in a timely manner.

It is also important that the Code of Construction Practice allows for issues which will be relevant to individual locations to be covered in a separate document.

Further under the General provisions the code highlighted the procedure that would be followed in regard to how occupiers would be notified of works and the complaint system to follow. Also a small claims procedure was set up and the Secretary of State had to appoint a Complaints Commissioner to cover any unresolved complaints. It is vitally important that these procedures are put in place again and that HS2 Ltd. appoints a nominated independent person who can hold the acquirer to account.

For small claims this could be covered by an arbitrator who is a member of Arbrix. If there are still complaints outstanding, it may be possible to go through the simplified procedure under the Lands Tribunal.

It is important that whoever is appointed acts fairly, as set out in the Duty of Care.

Payment of Compensation

Compensation must be adequate to make sure that the level agreed is fair and does compensate the claimant for the loss of losing land and the actual affect it has on the farming business. As the case studies highlight, the effect of losing land has a far wider impact on the remaining business than just being compensated for the open market value for the land being acquired. This is especially apparent in case study 1 where potatoes are grown on contract, case study 3 where the impact of the location of the rail line on the diversified range of traditional outbuildings converted to offices (case study 3) and case study 4 relating to the wedding business.

Therefore, it is very important that the losses for severance and injurious affection are assessed on the basis of the depreciation in the market value of the claimant's retained interest.

Compensation must also be paid for access taken to carry out surveys including environmental, archaeological and mapping, and for ground investigation works, including boreholes, piezometer, trial pits and penetration tests. These payments were agreed up front between HS1 and the Kent Channel Link Group (KCLG). The KCLG was set up to minimise the impacts and maximise the benefits for farming in Kent. The group was made up of the NFU, CLA, CAAV and RICS. Again the NFU, CLA and CAAV have already been working together on the issues raised so far by HS2 and it is hoped that land agents representing many of the farmers to be affected by the proposed route will become involved in the new Compulsory Purchase Policy Review Group.

The compensation that is agreed must be paid promptly and this needs to be enforced. Further, interest must be paid and it needs to be at a commercial rate and paid on a compound basis. It is very important that 90% of the open market value of land acquired is paid promptly on the date of possession at the latest.

Annex – Five case studies of farm level impacts

NB The case studies below focus on agricultural related issues only and do not consider other material issues such as impact on the environment. Those concerned have given their consent to the use of these case studies. They may also wish to submit their own representations in response to the HS2 consultation.

Case Study 1

Size: Owner occupied 288 acres plus annual let 30-40 acres.

Employment: 1 Full Time Equivalent (FTE) (the owner) and casual labour as required. It should be noted that the current owner wishes pass the farm on to his daughter, and therefore is particularly keen to make sure it remains a profitable viable enterprise.

Cropping: 90 acres of potatoes on approximately a 1 in 5 rotation, the rest of land is cereals.

Diversification:

- Duck shoot, earning £1,000 per annum;
- Livery for up to 8 horses, earning up to £10,000 per annum; and
- Countryside Stewardship Scheme, which brings in circa £10,000 per annum, as well as enhancing the local wildlife and environment

Impact of HS2

The proposed line of HS2 cuts the corner of one field of this compact farm. It will sever 15 acres, with an additional area of about 2 acres being taken for the railway itself. This is about 5% of the owner occupied part of the farm.

In terms of the farm enterprise, all fixed costs are based on the assumption that the scale of the enterprise will remain approximately the same, with growth rather than contraction being the long term plan. Examples of this are the recent purchase of a potato harvester for £80,000 and the farm reservoir built approximately 14 years ago.

The reduction in the size of the farm means these overheads would be carried by a smaller unit. It is possible that other land could be rented in but

- There is no guarantee this will happen, as other farmers in the area might be seeking a similar solution; and
- It is likely to be less convenient, as it is unlikely to be adjacent to the existing holding.

Other alternatives

- Provision of an occupation crossing. The railway is in a shallow cutting and the provision of an over bridge is probably technically feasible. However this would take more land and the cost of a bridge may make this impractical.
- Land swap. It will be noted from the plan that the neighbouring farm loses a small corner of a field. Aside from whether a satisfactory transaction could be arranged this is not a practical option as the boundary between the fields is defined by a ditch and mature hedge. Therefore to enable the full cultivation of these would require the removal of the hedge and the ditch being placed in a culvert. Aside from cost this is probably unacceptable on bio-diversity grounds.

Therefore for practical purposes it is likely that these two corners will be a loss to food production. No doubt they could form part of environmental mitigation for the railway. However if the farmer wanted to renew his agri-environment scheme, this may result in further loss of productive farm land (see note below on agri-environment schemes)

Agri-Environment schemes

Currently the farm is in a Countryside Stewardship Scheme. There is uncertainty over the future course of such schemes with the CAP review. The range of outcomes is from the abolition of all such schemes to a completely new arrangement, with or without a transitional arrangement from the 31st December 2013. All farmers have to contend with this uncertainty. However the possibility of losing part of the farm adds another layer of uncertainty, as the farmer can no longer guarantee how much land he can control in the future.

Other impacts

- Duck pond: This will almost certainly be affected by the railway with the loss of an annual rental of £1,000.
- Irrigation: Land is regularly rented in to the south and west of the farm. This is used to grow potatoes in particular the Maris Piper, which is a premium variety with the biggest profit margin. However, these require more water than other varieties. At present, if irrigation is needed for these fields, it is a relatively simple matter to lay piping across the existing farmland. This would not be possible with the railway. This would reduce the cropping potential of those fields. It is difficult to see how this could be overcome as the railway is at grade or in a shallow cutting. To get water either over or under may well require additional pumping at additional cost.

Conclusion

This example demonstrates that where a farmer's main income is from food production every acre counts towards the profitability of the enterprise and the loss of just a small portion may affect long term profitability. It also demonstrates that loss of farm land is likely to be much higher than just the land take for the railway.

Case Study 2

Size: Owner occupied 424 acres, rented 350 acres (the rented land will be lost over the next ten years to gravel extraction)

Cropping: Arable rotation, combinable crops

Employment: FTE 2

Diversification:

- Livery with 40+ horses employing 3 permanent staff;
- Flying Club (model aircraft); and
- Curborough Sprint Course (motor racing)

Impact of HS2

The proposed line of HS2 cuts the corner of one field leaving approximately 40 acres 'isolated' from the main farm.

Other Impacts

The main issue for this farm is the access arrangement. The farmstead and livery has an access to Netherstowe Lane. However, this is a narrow road for its entire length with numerous 'blind' bends and is barely wide enough for one lorry. It is totally unsuitable for farm traffic and that generated by the livery. However, the farm is situated on the edge of an old airfield and has an excellent access to the north using for the most part old taxiways and concrete roads. This route would be cut by the proposed railway. It is essential that an under bridge is provided of sufficient width and height to accommodate all farm vehicles to allow this access to continue.

The land used by the flying club is next to the proposed line of the railway. It is assumed this is unlikely to continue and there will be a net loss of income.

The Sprint Course is not affected by the line of the railway but it is essential that access to it is retained at all times during the construction phase.

Conclusion

The loss of the rented land over the next 10 years means that the long term future of this farm is focused on the owned land. It is understood there are long term development opportunities that the owner is exploring. However there is no guarantee that this will occur. It is essential should such plans not come to fruition that an access is retained to the north as outlined above.

Case Study 3

Size/ownership: Owner occupied 350 acres in two blocks, (250 acres at site affected by HS2, 100 acres further afield at Atherstone); rented 25 acres

Employment: 1 FTE (Family)

Cropping: Arable rotation wheat/barley/oilseed rape

Diversification

- Offices and storage units currently employing 30 people;
- Outdoor corporate entertainment e.g. quad biking with small conference suite;
- Bed and breakfast; and
- The farm is in the Entry Level Stewardship Scheme

Impact of HS2

The proposed route cuts across the farm holding taking approximately 15 acres. It will require the demolition of the farm bungalow. The toe of the proposed embankment will be next to the bed and breakfast business which may require demolition depending on the precise alignment of the line. Even if the building is retained the B&B business is unlikely to be viable. The office buildings will be within 10 metres of the proposed line.

The plans also show a new alignment for the A4091 to the east of the existing. This would take a further 8 acres from the farm. This would also result in a narrow V shaped field which it may be impractical to cultivate on a profitable basis.

At present the main access to the farm is from the A4091 which leads directly to the farmstead. The whole farm can then be accessed from this point. If the farm is severed and without an accommodation bridge then all farm vehicles will have to use the public highway via the A4091 and Bodymoor Heath Road. This will require a right turning movement off the busy A4091 by slow moving farm vehicles. It also means that moving a combine harvester from one side of the farm to the other would require detaching the cutting head and trailing it separately then reattaching at the other end of the journey.

Also, without an accommodation bridge, a new access will have to be constructed to the farmstead from Bodymoor Heath Road, which would take more land out of agricultural production.

The alternative to this is to provide an accommodation bridge to allow continued internal circulation of farm traffic. However given the cutting head can be up to 12m wide it would need to be a substantial bridge to obviate the need to detach and re-attach the cutting head each side of the railway.

As with Case Study 1, the capital investment in the farm is based on its current acreage. By reducing the acreage this increases the unit cost. Also, the additional costs outlined above of operating one farm cut in half by HS2 will further erode profit margins.

Agri –environment schemes

As for case study 1

Other impacts

The farm has diversified, with a range of traditional outbuildings being converted to offices. There is currently 100% occupancy. One of the offices was converted within the last 12 months with a grant from Advantage West Midlands. The quite location is particularly attractive as are the good communication links. The offices provide a substantial income for the farm. Although the buildings are not required for the construction of the railway, their proximity to an embankment will have a significant impact on the quality of the environment. Already a number of occupiers have indicated they will not be renewing their leases when they expire because of the impact of the railway. The precise impact is difficult to calculate, but it is reasonable to assume that rents will have to be reduced and an allowance made for vacancies.

It is not clear whether the B&B can continue as detailed design may require its demolition. Even if the building remains, it is unlikely that the B&B will remain a viable business, due to its proximity to the line.

Conclusion

This arable farm is sustained by important diversification. The cutting in half of the main farm holding will have a major impact on the farm operation; this together with the impact on the offices may mean it the farm will not survive.

Case Study 4

Size: owned: 300 acres; rented: 400 acres

Employment: 5 family members in full time employment on the farm plus additional staff for weddings, the farm shop and farm business – over 25 employees in total

Cropping: vegetables for farm shop, grass for 200 sheep, arable land.

Diversification:

- Pick-Your-Own fruit established 1976;
- Farm shop established 1989;
- Wedding venue established 2006;
- Bridal suite with accommodation for up to 10 guests created in 2005; and
- Farm shop incorporating a café and butchery, expanded into converted turkey sheds in 2009 to meet growing demand.

The farm was bought in 2002, but was tenanted by the same family since the 1920s. The volatility of the potato industry and uncertainty of cereal production and single farm payment prompted the family to consider alternative revenue sources.

The wedding venue obtained a civil wedding licence in 2006, the old grain store and bull pen (now a licenced bar) were converted to wedding ceremony and celebration premises (with a kitchen for catering) as the buildings were no longer required for arable production on the farm and no cattle were kept. The venue holds 250 guests, seating 160 and provides 70% of the financial income for the business. 120 weddings are booked for 2011 and there are also over 70 bookings for 2012 and 2013. There is obviously room for expansion of this business which is the intention for the future.

The farm shop attracts over 1000 customers per week, with a recent food festival welcoming over 2,500 customers in one day. Turnover is expected to reach £700,000 in 2011-12.

Impact of HS2

The proposed route cuts straight through the middle of the farm in a cutting 20m deep, destroying the farm house and wedding venue, thus entirely wiping out a large part of the business and the home of the family, business owners and employees. The grain shed will be on one side of the proposed route and the farm shop on the other, both very close to the proposed line of the railway. The future of the bridal suite is also in doubt as this may also need to be demolished if the rail route is built through the farm.

- Access - will become an issue as the grain store will be located on another side of the farm to some of the cropping and the farm shop. An access across the track will need to be created to ensure the parts of the business that may be left can run as efficiently as possible – allowing trailers to carry grain from each side of the farm to the store and also move vegetables from their growing location to the farm shop.
- Irrigation – a reservoir is located on the farm, thus irrigation from one side of the rail track to the other will need serious consideration, if not possible, alternative irrigation methods will need to be sought to ensure crops can successfully be grown on the holding, in order to

supply the farm shop. This would involve extra infrastructure of pipes, water abstraction licences and financial cost.

- Employment – the business employs over 25 staff plus family members, supporting local people and helping to keep a community alive. With the proposed HS2 route destroying the wedding business, a number of employees will be without a job.
- Family future – it has been the intention for the next generation to take on the running of the business, this is now in jeopardy as the farmer's son's house will be affected by the HS2 route, as well as the businesses that he, his fiancé, and sister are running on the farm.

Conclusion

This case study illustrates the fact that the farming enterprise can be highly supported by diversification and it is this that helps the primary production on the farm to create a diverse range of career opportunities for employees and family of all ages within the area, creating jobs and a sustainable local community, as well as keeping a family in close proximity with a prosperous future. The potential of this business being struck through the heart not only destroys the land but also the livelihoods of those that live and work within it. Of course it is possible to relocate a business however the business plan of the current owners and their family has been radically altered with the proposal of HS2, the intention of passing on the business to the next generation within the family is now put in jeopardy, as well as the retirement plans of the founders of the business.

Case Study 5

Size 760 acres owned and 540 acres rented.

Cropping arable 900 acres combinable crops
400 acres pasture for 300 cow herd plus young stock.

Employment 4 family members and 4 other employees, all full-time.

Diversification none

Impact of HS2

The history of the farm goes back to 1885, when 230 acres were rented and eventually purchased in 1968. The acreage has been added to periodically since then.

A new milking parlour and associated buildings were erected in October 2009, 6 months before the HS2 announcement. The facilities included a new cubicle shed holding 220 cows and a straw yard for fresh milkers and heifers. Planning permission was also granted for another 220-cow cubicle shed. A second house (with agricultural occupancy condition) was built on the farm for one of the partners on grounds of animal husbandry needs.

The proposed HS2 route will cut through the farm in 4 places and will be 50 metres from the dairy unit. It will take out the new house. The new dairy unit will be severed from all but 15 acres of grazing land by either HS2 or a new road required in connection with the re organisation of the local road network. Land will also be taken for a proposed infrastructure maintenance depot.

It is extremely doubtful that the dairy herd can be maintained, particularly during the construction phase when noise and disturbance next to the milking parlour will be having maximum impact.

Conclusion

The dairy unit would be lost and there would have to be a major re-organisation of the farming enterprise.