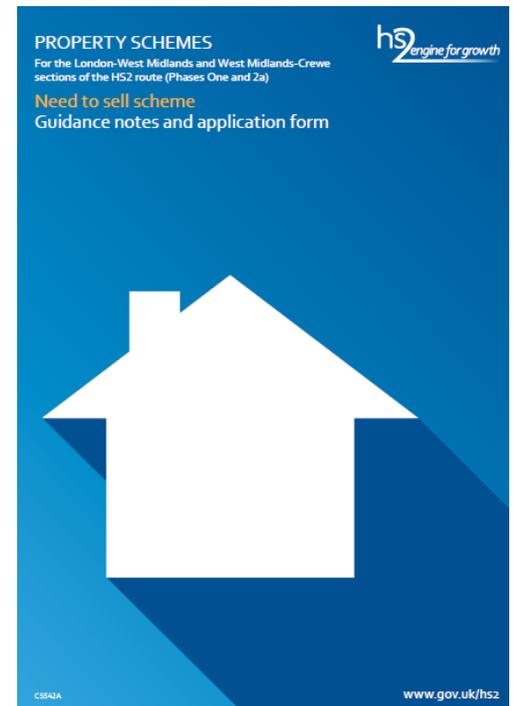


- **Hilary Wharf: Director HS2AA, rail consultant**
  - Co-ordinated all DfT compensation consultation responses by HS2AA (7) since March 2010
  - Championed Property Bond
  - Steered successful High Court action on DfT compensation consultation decision
  - Supported individuals on EHS/NtS applications
  - Worked to clarify and improve NtS guidance

# Compensation

- **Goal:** a demonstrably fairer NtS scheme

- **Context**
- **Consistency and transparency**
- **Clearer fairer rules and guidance**
- **Accessibility and engagement**



- **Process changes**

- Consolidated and articulated Scheme Rules and Guidance
- Decisions and precedents made available
- Appeals procedure and independent scrutiny
- Assistance and help
- Regular statistics published

- **Rule changes**

- 'Age and stage'
- Location criterion
- Other elements

- **Pro-active engagement**

- Not just to those within 1km, but specific letter to rejected applicants
- Highlighting changes eg on finance evidence, health and mobility

- **Retrospective compensation ('sold and lost')**



# Context: statistics

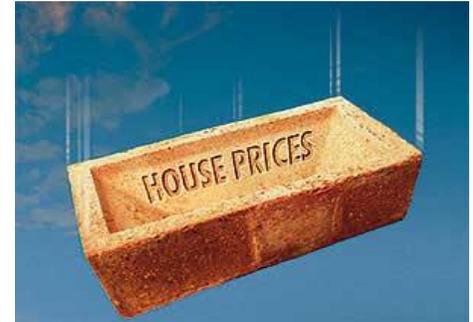
- **172,000** homes within 1km of open line or 250m of a tunnel. **1 million people** both phases.
- **EHS: 30%** accepted (513 cases). **NtS: 59%** accepted (223 cases). London cases: (**6 EHS/6 NtS**)
- **Offers** on open market: **33% cases**
- **Distance: 20%** accepted cases **over 800m** from line
- **Average price: c. £690k**
- ‘Compelling reason to sell’/’exceptional hardship’ criterion: most **failed** criterion
- ‘Location criterion’: most **overridden** by panel
- **Retirees: 50%** applicants (Oct 2015)
- **Re-applications: EHS x%; NtS 8%** (Oct 2015)
- **Decision time: EHS: 6.9wks; NtS: just under 6wks**



# Context: blight is real

**Colin Smith, HS2 Ltd Expert on Land & Property Compensation, 26.5.16 HoL**

*“Generalised Blight (of the property market) in areas that are in the shadow of HS2 ..... is driven by concern, anxiety and fear... It is real.”*



## Reductions in:

- Value
- Sales
- Mortgage lending

## Estate agents:

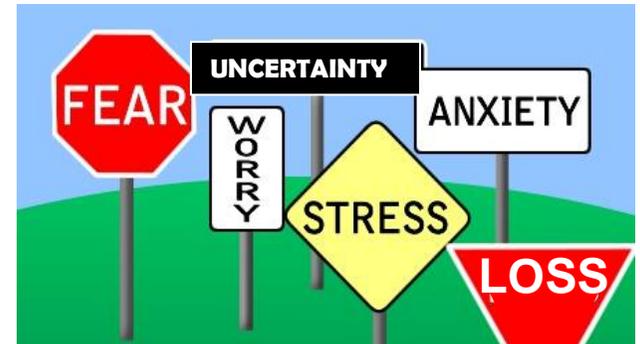
- “20 to 30% loss in value if can see or hear it”*
- “People ask about construction traffic routes”*
- “Blight typically will extend to a mile from HS2”*
- “When construction starts sales can be expected to dry up”*
- “The whole village is blighted”*

## Variations:

- By time, by locality
- By property type

## Causes:

- Loss of amenity and a new nuisance
- Uncertainty
- Amplified by fear of uncompensated losses



*.....it has dominated residents' lives for nearly 7 years*

# Context: trust

- **Maladministration**
- **DfT ran 7 compensation consultations:** little changed, waited 5 years for NtS
- **High Court action: HS2AA v Secretary of State:** *“All in all, the consultation on compensation was so unfair as to be unlawful.”* Mr Justice Ouseley.
- **EHS legacy to 2015:** insensitive rejections; financial evidence even if not the reason for sale.
- **‘Means tested’ reputation**
- **Blighted valuations**
- **Lack of transparency:** fuels suspicion and mistrust



# Context: residents' perspective

*“Cost has trumped fairness”*

*“Changes are resisted to avoid setting precedents for future infrastructure projects, even for good changes”*

*“Administered grudgingly..... decisions can be arbitrary ..... it's too secretive”*

*“Not getting unblighted value”*

*“I had to sell and lost over £250k”*

## EHS then NtS

- Uses **discretion** rather than rule changes.
- Avoids **transparency** and hence precedent setting
- Fails to deliver **accessibility**



**We seek the support of the HoL Select Committee to formalise what we have gained and to make further progress**

*..... residents need your help and parliamentary support*

# Consistency & Transparency

## Operates by discretion

- ✓ exceptional circumstances
- ✗ standard cases

## Confidentiality

- Conceals decision making, prevents case-law/precedents



## 'Guidance notes'

- More not less detail to help applicants

## Statistics have lapsed



## ASKS

- Independent appeal (not just re-application)
- Independent scrutiny
- Publish redacted decision summaries (use as precedent)
- Publish precedents (that Panel receive)
- 'Summary sheets' to rejected applicants
- Monthly statistics



# Clearer fairer rules & guidance

## Welcomed:

- **Financial evidence not now required unless claiming financial hardship as compelling reason to sell**  
EHS ✓ NtS ✓
  - But most people still don't know
- **Guidance on mobility & health issues**  
EHS X NtS ✓
  - Not now expected to employ others to maintain your property, or spend money to adapt it, & recognise the need to move if family support needed or to access amenities
  - Overtakes insensitive rejections based on 'sleep downstairs', 'employ a gardener'
  - No explicit phrase "house an unreasonable burden", despite being in HS2 Ltd evidence
- **Can pick any RICS valuer eg a local one**
  - But valuation issues remain

.....but unreasonable to wait 16 months and insufficient publicity

# Clearer fairer rules & guidance



## Compelling reasons to sell Guidance

Jan 2015 NtS (and EHS) Scheme	May 2016 NtS Scheme (1 & 2a)	Website summary of 2016 NtS Scheme	Comment
<i>(examples)</i>	<i>(egs "not beneficial to government")</i>		
Unemployment	Unemployment	Unemployment	
Relocation for new job		Relocation for new job	
Divorce settlement	Divorce settlement		
Ill health	Health and mobility	Ill health	<i>"house being an unreasonable burden"</i> is not stated
Release capital for retirement			Retirees vanished. Nothing on retirement plans
	Winding-up estate		Only eg that "normally" qualifies

*.....raises unanswered questions for retirees*

# Clearer fairer rules & guidance

## “Age and stage”

### ➤ HoC concluded:

- **2015 Interim Report: (para 271)** *‘we wanted a more considerate, generous approach, including a recognition that people’s ‘age and stage’ in life might be good reason to want to move*
- **Feb 2016 Report: (para 279)** *‘ It is difficult to imagine justification of less than 90% acceptance on applications by those over 70 or who will be over 70 when the project commences.*
- *‘Work remains to be done in addressing the greater needs of a higher proportion of older applicants (para 296)*



### ➤ DfT responded in **May 2016 NtS** and dropped all references to retirement. But Mr Mould told House of Lords a month ago a different story on retirement:

*67. There are other examples of personal circumstances **identified in the guidance document**, such as, for example, the need to move to another job, which requires the applicant to relocate their home, **the onset of retirement in accordance with long-held plans of the applicant, their plan to move from their home to a smaller home for example, or to move from an urban location to a home by the seaside or something like that – the sort of things that people often aspire to do when they reach the stage of retirement and they want to enjoy their retirement years in a different living environment, as it were.** 11 October 2016*

*.....guidance on retirement is less not more*

# Clearer fairer rules & guidance

## Finishing the job: “Age and stage”

### ASKS

- NtS to explicitly refer to “age and stage”, and retirement plans and make Mr Mould’s statements come true eg accept plans to move to the seaside
- NtS to include “normally” acceptable reasons :
  - Implementing retirement plans
  - Examples of need to release capital – wider than to cope with a reduced income eg help children on the property ladder
  - “*property no longer fit for purpose*” (covering both young and old ie upsizing and downsizing) and ‘*house an unreasonable burden*’



.....unreasonable to remove any reference to retirement

# Clearer fairer rules & guidance

## The 'Location Criterion'

- Is the property likely to be 'substantially adversely affected' by 'construction or operation' ?

DfT say needed to "ensure that the Government is not obliged to accept an application from an unreasonable distance away".

- HS2 Ltd claim no distance limit
- Most overridden criterion by the panel, but no guarantee
- If the market says its blighted then unreasonable to disqualify

**Works against  
the purpose of  
NtS**

## Helstrip v HS2 Ltd (Jan. 2013 decision)

- Individuals should not be disqualified because of the "markets misperception" of what the actual adverse effect might be
- Location criterion is being used by HS2 Ltd "for not exacerbating blight" which is contrary to Scheme's purpose ie "to provide redress for blight".

**ASKS:** To remove Location Criterion

.....unreasonable to include location criterion on top of blight criterion

# Clearer fairer rules & guidance

## Other elements

- **15% rule on offers** – inappropriate in London
- **Bought post-2010** – bakes blight in; construction route issues
- **Valuation issues** – achieving an unblighted price
- **Mortgage valuations** – “zero” because of HS2
- **Terminally ill cases** – fast-track process

## ASKS

- Clarify in new Scheme Rules and Guidance
  - Report makes suggestions for improvements



# Accessibility and engagement

## How to get more information

Difficulty in producing an evidence-based application

EHS reputation still discourages applications

No consolidated set of Rules and Guidance

## ASKs: accessibility

- HS2 clinics: at minimum access to NtS team (pre-application)
- Assistance eg from an independent body
- Input to Guidance Notes from those it's aimed at
- Consolidated and articulated Scheme Rules and Guidance



..... need to engage and build trust

# Accessibility and engagement

## Limited engagement

### Those who have 'sold and lost'

**271.** We asked the Promoter to consider the **retrospective compensation cases** of property owners who had not applied under any scheme but who had already sold at substantial discount owing to blight, perhaps through an urgent need to move.

**272.** ..... The Government said it believed there would be issues of equity with any broad policy of retrospective compensation, but that **some exceptional cases** might exist. Those cases would be considered on their merits.

Feb 2016 HoC final report

## ASKs: pro-active engagement

- To those within 1km, specific letters to rejected applicants
- Highlight changes eg on finance evidence, health and mobility
- Retrospective compensation cases ('sold and lost')
- Publicise existing process; review cases under new rules, not old



.....need to genuinely and pro-actively engage

## ■ Process changes

- Consolidated and articulated Scheme Rules and Guidance
- Decisions and precedents made available
- Appeals procedure and independent scrutiny
- Assistance and help
- Regular statistics published

## ■ Rule changes

- 'Age and stage'
- Location criterion
- Other elements

## ■ Pro-active engagement

- Not just to those within 1km, but specific letter to rejected applicants
- Highlighting changes eg on finance evidence, health and mobility

## ■ Retrospective compensation ('sold and lost')



