

M42 Junction 6 Development Consent Order Scheme Number TR010027

8.57 Details of Compensation Documents

Planning Act 2008

Rule 8 (1)(k)

The Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

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Infrastructure Planning

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The Infrastructure Planning (Examination Procedure) Rules 2010

M42 Junction 6
Development Consent Order 202[]

Details of Compensation Documents

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1 Introduction

1.1 Background

- 1.1.1 During the Open Floor Hearing on Thursday 22 August 2019, Highways England committed to providing information at Deadline 4 (2 September 2019) on the relevant compensation which may be available to those affected by the M42 Junction 6 scheme (the Scheme).
- 1.1.2 The information is in the form of guidance booklets produced by Highways England. The content of this guidance is summarised in section 2 within this document and links are provided to the documents on the www.gov.uk website (apart from Your Property and Land Surveys, which is not available as a web link and is included as an appendix to this document).
- 1.1.3 The relevant guidance detailed within this document are as follows:
- Your Property and Compulsory Purchase;
 - Your Property and Our Road Proposals;
 - Your Property and Land Surveys;
 - Your Property and Blight;
 - Your Property and Discretionary Purchase; and
 - How to Claim for the Effects on your Property of New or Altered Roads.

2 Details of compensation documents

2.1 Your Property and Compulsory Purchase

- 2.1.1 This guidance document provides information for those whose property or land may be required to be purchased for Highways England schemes, such as the M42 Junction 6 scheme, using compulsory powers.
- 2.1.2 The booklet outlines the following:
- what compulsory purchase is;
 - who may be able to claim for compensation related to compulsory purchase;
 - the types of compensation available;
 - how compensation claims are processed; and
 - how to apply for advance payment.
- 2.1.3 This guidance document can be viewed using the following web link:
<https://www.gov.uk/government/publications/your-property-and-compulsory-purchase>

2.2 Your Property and Our Road Proposals

- 2.2.1 This guidance document outlines the procedures Highways England follows when delivering large road schemes, such as the M42 Junction 6 scheme, and the types of compensation that may be available to property owners.
- 2.2.2 The booklet provides the following:
- an overview of the stages of planning a major road scheme, from option identification to the opening of the scheme; and
 - more detailed information on each of these stages, including blight notice and discretionary purchase. This includes an explanation of when in the process a property can be considered blighted and how properties may be considered to be 'off-line'. Compulsory acquisition, compensation for construction effects, compensation for noise insulation and Part I compensation are also explained within this document.
- 2.2.3 This guidance document can be viewed using the following web link:
<https://www.gov.uk/government/publications/your-property-and-highways-england-road-proposals>

2.3 Your Property and Land Surveys

- 2.3.1 This guidance document provides information on compensation that landowners/occupiers may be entitled to if Highways England carries out surveys on their land, or leaves measuring apparatus on it.
- 2.3.2 The booklet explains the following:
- circumstances in which compensation may be paid to landowners or occupiers;

- what level of compensation is typically paid, depending on the type of surveys undertaken, including intrusive surveys such as boreholes and trial pits and archaeological surveys;
- an indication of the rent which may be paid if equipment is left in place on the land;
- that compensation could be claimed for the landowner's or occupier's time, and how compensation could be paid through a surveyor if preferred; and
- how compensation claims are processed.

2.3.3 This guidance document is included in **Appendix A**.

2.4 Your Property and Blight

2.4.1 This guidance document provides information on how blight notices can be served.

2.4.2 The booklet explains the following:

- what blight is and how properties may be deemed to be blighted by a scheme;
- when a blight notice can be submitted and by whom;
- that individuals must be able to show that they have made reasonable efforts to sell their property;
- how to request and submit a blight notice;
- how a blight notice is processed;
- the options available if Highways England serves a counter-notice;
- when a blight notice can be withdrawn; and
- that mortgage lenders can serve blight notices.

2.4.3 This guidance document can be viewed using the following web link:
<https://www.gov.uk/government/publications/your-property-and-blight>

2.5 Your Property and Discretionary Purchase

2.5.1 This guidance document explains the circumstances in which Highways England may purchase a property for a road scheme.

2.5.2 The booklet explains the following:

- how Highways England may be able to purchase properties which cannot be sold except at a significant loss as a result of a proposed scheme;
- who may be eligible;
- that efforts to sell the property must be evidenced;
- how to request an application form;
- how claims are assessed;
- that a property would not normally be purchased if information showing a scheme's impact was published before the property was purchased; and

- situations which may be regarded as a pressing need to sell.

2.5.3 This guidance document can be viewed using the following web link:
<https://www.gov.uk/government/publications/your-property-and-discretionary-purchase>

2.6 How to Claim for the Effects on your Property of New or Altered Roads

2.6.1 This document is a guide to Part I claims.

2.6.2 The booklet details the following:

- what Part I compensation is;
- whether Part I compensation can be claimed;
- when Part I compensation can be claimed;
- how Part I compensation can be claimed;
- the process for processing Part I claims and how long it takes to settle claims;
- how Part I compensation is worked out;
- what Highways England may pay for;
- what can be done if an individual has a dispute about a claim;
- the Limitation Act 1980; and
- tips to help an individual's Part I claim.

2.6.3 This guidance document can be viewed using the following web link:
<https://www.gov.uk/government/publications/a-guide-to-part-i-claims>

Appendix A: Your Property and Land Surveys



Your property
and land surveys

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Highways England

At Highways England, we maintain, operate and improve England's motorways and major A-roads, the roads we all use between major cities and which are vital to our economy.

In 2014, the government tasked us with delivering their road investment strategy. This is a programme of investment which aims to improve journeys, tackle congestion, support the economy and maintain safety.

Introduction

This guide aims to inform you about the compensation you may be entitled to if we enter onto your land to carry our surveys, or leave measuring apparatus on it.

Our major road schemes go through a series of steps from the identification of options to the road being in use. The surveys we carry out help inform our decisions about which option is selected and the layout and design of the scheme.

More information about the process we follow to deliver our larger road schemes and the other types of compensation that may be available can be found in the following Highways England publications:

Your property and our road proposals: 2017
Your property and blight: 2017
Your property and discretionary purchase: 2017
Your property and compulsory purchase: 2017
How to claim for the effects on your property of new or altered roads: 2015

For more information

 info@highwaysengland.co.uk

 0300 123 5000

 www.highways.gov.uk

Surveys and compensation

Even though Highways England can legally enter land to carry out surveys using its legislative powers, we would much rather work with you to agree suitable access arrangements, as this helps to keep any impact on your land or property to an absolute minimum.

We can compensate owners and occupiers for disturbance and damage resulting from surveys and pay rent where there is a need to leave apparatus on site. It is usually the occupier of the land who gets compensation as he/she is the one that will be most affected by our works. However, we will also consider reasonable evidence-based claims from landowners who are not in occupation but who have suffered disturbance and damage as a result of the survey.

You will normally need to make your claim for compensation after the survey has taken place. However, please refer to the “How we process your claims” section of this guide for more information.

Typical compensation levels

The tables on pages 8, 9 and 10 give a very general idea of the compensation rates Highways England typically applies to different types of survey. These rates are based on our experience of previous schemes and are considered to cover most of the losses suffered by those in occupation of the land.

The rates enable us to settle claims quickly and can be applied where we access your land by agreement and where we serve notice on you using one of our legislative powers. As they are a guide, any exceptional cases will be assessed on an individual basis. For example, they do not include disturbance payments such as crop loss or any effect on payments you receive from the Rural Payments Agency.

To assist you with compensation claims for intrusive surveys (such as boreholes, trial pits and archaeological surveys and trenches) we will send you a condition report which will include:

- Plans of the site (including details of access routes across your land to reach the survey locations)
- Details of the surveys undertaken
- A photographic record of conditions before and after the survey including any reinstatement works that have been carried out.



We can compensate owners and occupiers for disturbance and damage resulting from surveys and pay rent where there is a need to leave apparatus on site.

Compensation for boreholes and trial pits

These types of survey can be intrusive. However, the following rates assume that Highways England or our contractor puts the land back into its original state immediately after use:

Land Type	Compensation per borehole
Arable	£200
Grazing or grassland	£200
Woodland	£50
Orchards, hop-gardens and self-pick areas	£100
Yards, gardens etc.	£200

Rent for measuring apparatus left on the land

These could prompt a single one-off payment, or an annual figure depending on how long the equipment is left in place. Both options are reflected in the table below:

Land Type	Compensation annually	Compensation one off payment
Arable	£100	£200
Grazing or grassland	£100	£200
Woodland	£50	£100
Orchards, hop-gardens and self-pick areas	£100	£200
Yards, gardens etc.	£100	£200

Where a number of items of apparatus is to be left on your land, we will try to group them closely together and the rates apply to each group of apparatus. However, where there are single pieces of apparatus that cannot be grouped with other pieces, the rates will apply to the group and to each single piece.

The rates include checking visits. Where we leave equipment on your land we will enter into an agreement with you to detail:

- The type of equipment being left
- Its position
- How long it will be in place
- How often it will be monitored.

Archaeological surveys

Highways England pays a set fee per archaeological trench that reflects our experience.

Land Type	Compensation per trench
Arable	£200
Grazing or grassland	£200
Woodland	£50
Orchards, hop-gardens and self-pick areas	£100
Yards, gardens etc.	£200

Nevertheless, we also recognise that the size and depth of the trench and the duration of the survey may have a material impact. Therefore, we will consider evidence-based claims showing exceptional circumstances.

Compensation for non-intrusive/walk-over surveys

We do not have a rate for non-intrusive/walk-over surveys where there is no physical disturbance to the land. However, evidence-based claims for disturbance and damage will be considered.

Surveyors fees

The compensation rates, together with the short-term nature of the survey, mean that we can negotiate agreements directly with you. However, if you would prefer to appoint your own surveyor to negotiate with us, we will also pay the reasonable and proportionate costs that you incur in engaging him/her, together with his/her appropriate out of pocket expenses. Your surveyor's fee must represent the cost of valuing, compiling and negotiating the claim and we will request information, such as time sheets, from them.

Claims for the time of the landowner or occupier

In addition to the above compensation rates, you can also claim for your own time spent in dealing with survey agreements, where:

- Your time was directly attributable to the claim
- Highways England agrees that it is reasonable to repay you.

How we process your compensation claims

What we need from you.

Once the surveys are complete (or every three months if the surveys are continuing) Highways England requires the occupier, landowner or his/her surveyor to submit a detailed claim for compensation showing:

- The number of surveys carried out (you can find this information in the condition report or we can provide it on request)
- The amount being claimed
- Evidence for any additional items being claimed.

In some circumstances, Highways England may request their own surveyor to assess whether the level of compensation being claimed is reasonable. We will keep you informed of progress if this is the case.

We will ask you to provide your bank details and confirmation of your VAT status before we are able to make any payment. Compensation, including any surveyor's fee, is paid directly to you and you will be responsible for settling your surveyor's fees. However, we can pay your surveyor's fees directly to them if we have your written consent.

How long the process usually takes

Highways England commits to dealing with your compensation claim in a timely manner and wherever possible we will try to make payment within 40 days of the claim being received (providing all the necessary information has been supplied). The settlement of a claim may take less time, for example if we do not need to refer it to our own surveyor.

Many of our legislative survey powers also provide that, if we cannot agree the amount of compensation payable, you may refer your claim to the Lands Chamber of the Upper Tribunal for determination. However, where you do not have this right, provided the Tribunal is content to hear your claim, we would not raise an objection to your reference. The Tribunal can award costs to either party so it is important that you seek professional advice before referring your claim. Please note that, depending on the number of references the Tribunal is dealing with, it may take several months for it to hear your claim.

Claims should be referred to the Upper Tribunal (Lands Chamber) 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL.

Our commitment to be open and fair

We are open, honest and fair and publish all relevant information unless it is exempt from publication under the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA 2018).

We will not use your personal information for any purpose other than to process your claim for compensation. All information we hold will be maintained accurately and kept as up-to-date as possible. It will only be accessible to those in Highways England with a need to see and process it. It will be destroyed when that purpose is complete.

However, if you appoint a surveyor to negotiate your claim, we will take that as your agreement to share your information, other than your bank or building society details, with them, unless you instruct us not to do so.

You may request a copy of the personal records we hold about you in connection with your claim. Requests must be made in writing to the address below and we will respond to your request within 40 days.

**Highways England
Piccadilly Gate
Store Street
Manchester
M1 2WD**

Following a request for information, we will write to let you know whether we hold the information requested and, if we do, send that information to you. We are not required to send information where one or more of the exemptions apply. For example, another person's personal details would be protected under the GDPR and the DPA 2018 and therefore we would not pass this information on.

To find out more please look at the freedom of information section of our website:

 www.highways.gov.uk

Complaints procedures

Our aim is to provide the best possible service at all times but there may be circumstances in which you wish to make a complaint about the handling of your claim. We are keen to improve the service we offer our customers wherever possible and provide redress where appropriate. However, if you are unhappy with any offer of compensation then that falls outside the remit of our complaints procedure and you can ask the Upper Tribunal (Lands Chamber) to determine your claim.

More information about the complaints procedure can be found at:

 info@highwaysengland.co.uk.

 0300 123 5000

 www.highways.gov.uk

Further information

The Department for Communities and Local Government (DCLG) publishes the following series of technical booklets that you may find useful.

Booklet 1: Compulsory purchase procedure

Booklet 2: Compensation to business owners and occupiers

Booklet 3: Compensation to agricultural owners and occupiers

Booklet 4: Compensation to residential owners and occupiers

Booklet 5: Mitigation works

 info@highwaysengland.co.uk.

 0300 123 5000

 www.highways.gov.uk

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