

**PLANNING ACT 2008**

**THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)  
RULES 2010**

**APPLICATION BY NATIONAL HIGHWAYS FOR A DEVELOPMENT  
CONSENT ORDER IN RESPECT OF THE A122 (LOWER THAMES  
CROSSING)**

**WRITTEN SUMMARY OF ORAL SUBMISSIONS**

**ON BEHALF OF**



**HIGH SPEED 1 LIMITED**

**Compulsory Acquisition Hearing 5 – 21 November 2023**

## Introduction to HS1

1. HS1 Limited is the 'nominated undertaker' designated under the Channel Tunnel Rail Link Act 1996 to construct, maintain and operate the High Speed 1 rail line between St Pancras Station and the Channel Tunnel. It does this under a 30 year concession agreement granted by the Secretary of State. HS1 Limited holds land for the purposes of its undertaking under leases granted by the Secretary of State. High Speed 1 is the country's first and currently only high speed rail line and is a piece of nationally significant infrastructure in its own right. HS1 is a statutory undertaker for the purposes of the Planning Act 2008.
2. HS1 Limited has the equivalent role in relation to the High Speed 1 line as Network Rail does in relation to most of the rest of the rail network in Britain. This is important to note, because, put simply, HS1's position is that it should receive the same protection as Network Rail is routinely given in other DCOs that have been granted, including those promoted by National Highways.

## The ExA's Questions

3. The ExA has asked five questions of each of the objectors. Questions, iv (about hardship) and v (about human rights) do not apply to HS1 and it has no submissions to make in relation to them.
4. Taking the remaining questions in turn:

- i. An outline of the current scope of objections, taking account of any progress in negotiations with the Applicant*

HS1 is generally supportive of the Project in principle. However, both its interests and the public interest in protecting the safety and operational integrity of the railway must be protected appropriately. HS1 has been negotiating amendments to the face of order Protective Provisions that would allow it to withdraw its objection.

HS1 Limited has been clear since the submission of its Relevant Representation that the Applicant should not be able to exercise powers of compulsory acquisition or temporary possession over HS1 Limited's operational land without HS1 Limited's consent.

This is included as a standard provision of protective provisions for the benefit of Network Rail, including in other DCOs promoted by National Highways. For example, recent National Highways schemes with which DLA Piper are familiar include:

- A1 Birtley to Coalhouse Improvement Scheme
- A428 Black Cat to Caxton Gibbet Road Improvement Scheme

However, to date the Promoter has refused to accept any restriction on the exercise of powers of compulsory acquisition or temporary possession of HS1 land. As already noted, HS1 Limited performs the same function as Network Rail in the context of the High Speed 1 railway, so the simple point made by HS1 Limited is that it should receive the same protection.

- ii. Whether CA and or TP powers (or both) are objected to and (with reference to the statutory tests and applicable guidance) why?*

Both compulsory acquisition and temporary possession powers are objected to.

HS1 Limited is a statutory undertaker within the meaning of the Planning Act 2008. The restriction on the grant of compulsory acquisition powers within s.127 of the Act is engaged. All of HS1 Limited's land is held, and used, for the carrying on of its undertaking. Without sufficient safeguards in the form of appropriate protective provisions, serious detriment to HS1 Limited's undertaking would result from the Project.

*iii. What relief is sought?*

HS1 Limited seeks a restriction in the Protective Provisions preventing the exercise of powers of compulsory acquisition and temporary possession by National Highways over HS1 land. This is a well-precedented solution to the issue HS1 Limited has raised.

The parties are continuing to discuss both the form of the Protective Provisions and the voluntary acquisition of land. They are hopeful that this will resolve the outstanding matters.

However, HS1 Limited wishes to see a resolution to the matter as soon as possible. We suggest that, if the Protective Provisions cannot be agreed by the time of Deadline 8, HS1 Limited should make submissions setting out the form of Protective Provisions it says are needed, which would allow National Highways to respond at Deadline 9 and both parties to make any final submissions at Deadline 10.

We believe that this provides a road map for the resolution of this issue, or at least for putting it into a form whereby any remaining dispute can be determined.