Environmental Impact Assessment and the hybrid Bill Process for High Speed 2

**Introduction**

High Speed Two (HS2) is the UK Government’s proposal for a new, high speed railway connecting the north and south of England. The proposal is being taken forward in three phases: Phase One will connect London with Birmingham, Phase 2a will extend the route to Crewe and Phase 2b will extend it to Manchester and Leeds. Phase One of HS2 is already authorised by the High Speed Rail (London – West Midlands) Act 2017.

Given the large scale of the project, a hybrid Bill approach has been adopted. The Government uses hybrid Bills to promote major infrastructure projects of national importance and have been used most recently for Phase One of HS2, as well as other rail schemes, such as the Crossrail Act 2008. Use of primary legislation rather than promoting a development consent order under the Planning Act 2008 allows the Government to seek the full range of statutory powers and authorisations that a project of this size and complexity requires.

If passed, the Bill becomes an Act of Parliament conferring powers, including deemed planning permission, to build the railway line and thereafter to operate and maintain it. It also provides powers to make applications for approval of details for certain matters defined by the Act to local planning authorities, powers of compulsory acquisition or temporary possession of land and property, and powers over rights of way. It would also disapply a number of the usual planning and environmental legislation requirements.

**The Role and Approach to EIA**

To support the hybrid Bill, an Environmental Impact Assessment (EIA), is undertaken, the results of which are reported in an Environmental Statement (ES). The EIA is undertaken in accordance with applicable legal requirements, EU and UK legislation, and current best practice, similar to other EIA development. For Phase 2a and Phase 2b EIA will adopt the principles of the EIA Regulations 2017 and Standing Order 27A and 224.

The EIA will consider both the beneficial and adverse environmental and community effects of HS2 in the short, medium and long term. It will consider both temporary and permanent effects caused directly and indirectly by the scheme.

There are some differences in approach to how the ES is presented and structured to other EIAs, given the scale of HS2, to make it proportionate and accessible. The ES for example has five volumes, these include specific environmental area reports for sections of the railway (split into ‘communities’ or ‘forums’), a ‘route-wide report’ for assessment of effects on a route wide basis, detailed environmental topic reports, as well as Equality Impact Assessments, sustainability statement, and a code of construction practice. This is to enable members of the public and stakeholders to easily access the information that is relevant to them and their area without having to read the entire ES.
The ‘scoping’ element of the HS2 Phase 2a and Phase 2b projects was undertaken using a ‘Scope and Methodology Report’, and was published online to obtain views from statutory and non-statutory consultees, stakeholders, as well as the public.

The design of HS2 provides the level of detail necessary for the purposes of the Bill and the requirements of the EIA Regulations. The level of detailed design necessary to enable the scheme to be constructed is not completed until after the Bill has secured Royal Assent.

Given the scale and contentious nature of HS2, it is a challenge to obtain sufficient baseline information to form a basis for assessment, and to predict future impacts and effects, particularly given the access constraints and length of time between obtaining Royal Assent and operation (which can be up to 10 years). To overcome this a ‘reasonable worse case’ scenario is used, and assessments undertaken based on a precautionary approach. This is in addition to using existing desk, consultation, and field data. This allows a reasonable worst case of the likely significant environmental effects to be made.

Other elements such as describing the reasonable alternatives considered and cumulative effects are assessed using a similar approach to other types of EIA development.

**Submission of the hybrid Bill to Parliament**

The ES is deposited with Parliament alongside the hybrid Bill for the scheme and allows Parliament to make an informed decision on whether the scheme should proceed. The hybrid Bill then passes through both the House of Commons and House of Lords. The provision of further information to Parliament and further consultation may be required during this legislative process.

The hybrid bill process also introduces a ‘petitioning period’, which is managed by parliament and its representatives. Individuals, groups of people and organisations that can demonstrate they are directly and specifically affected by the project can oppose any aspect of the bill, although not the principle of the project. These ‘petitions’ are considered by the House of Commons and House of Lords select committees, which have the power to change the Bill if they agree with the petitioner’s objections.

Only once the hybrid Bill has been through this process can it receive Royal Assent and become an Act of Parliament. The deemed planning consent granted by the Act will guarantee that what is in the ES is implemented, similar to the application of planning conditions on other schemes.

*Jeff Turner, Associate, Ramboll, April 2018.*

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3. **Private Business Standing Orders of the Houses of Parliament require that the hybrid Bill, when submitted to Parliament, must be accompanied by a set of supporting documents. These documents include Plans and Sections of the works, a Book of Reference detailing the land interests affected, an estimate of expense and an ES describing the likely significant effects of the Proposed Scheme on the environment.**