

Your property and blight

1. Introduction

Highways England is a government-owned company set up to look after England's motorways and major A-roads: the roads we all use between major cities and which are important to our economy. We maintain, operate and improve this strategic road network to help traffic flow more smoothly and provide drivers with information they need to plan reliable journeys.

2. Why road schemes are needed

Roads support our daily life and are vital to our economy. Since 2010, the Government has steadily invested in road schemes that tackle congestion and improve safety on our motorways and major A-roads. On 1 December 2014, the Government published its road investment strategy to triple levels of spending on England's roads by the end of the decade. Delivering these benefits to road users as quickly as possible is essential and we want to accelerate the pace at which we work through a programme of investment designed to improve journeys, tackle congestion and maintain safety.

3. This booklet

This booklet will provide you with information about blight caused by major new road proposals or improvements. It has been produced to help you to understand how we can help you if your property is blighted.

You may also be interested to know that the Department of Communities and Local Government (DCLG), which oversees the legislation relating to compulsory purchase, including blight, has produced a series of compulsory purchase and compensation booklets for members of the public (see further information page 7).

4. What is blight?

Blight is when the value of a property is reduced because of large scale, or major, public works. It makes it difficult for homeowners to sell their properties at market value and they often have to sell at a much lower price. Under the Town and Country Act 1990 (as amended), Highways England has legislative powers to purchase blighted land, meaning that home and landowners can sell their property to us at market value.

Blight can directly affect property where land is needed for part of a road scheme. This is known as statutory blight and the property as being on-line.

Blight can also affect off-line property – this is where no land is required for a road scheme. Different rules apply to off-line properties and we are not obliged to purchase properties that are off-line.

However, Parliament has recognised that, in these circumstances, owners might have an urgent need to move but cannot sell their property except at a significant loss because of the effects of the scheme.

Printed copies of our guidelines on discretionary purchase may be obtained by calling our information line on **0300 123 5000 or by emailing us at info@highwaysengland.co.uk**

At the start of any road scheme, we carry out a study to investigate and assess route options. Following this, we run a consultation process and publish a free consultation document that is used to explain our proposals to people living near, or on, any of the options included in the consultation as well as any interested local businesses or organisations.

The consultation document is normally available on our website and is also normally deposited in locations near to the area, such as libraries, etc, so that it is available to people who do not have access to our website. The document gives details of the various options and the likely effects on the local area. We will normally include a questionnaire asking for local knowledge and your preferences and views in order to help us choose the preferred route. We may hold public information events to explain the options under consideration and give you an opportunity to discuss our proposals.

During the consultation, we cannot say with any accuracy which property might be required. Following the consultation, if we decide to go ahead with a particular option, we will announce a preferred route for the road and the reasons for the choice. We will then protect that route from conflicting development by registering it with the local planning authority. This provides clarity over which properties will be affected and triggers statutory blight.

5 What can I do if I believe my property is blighted by a road scheme?

If you believe that a road scheme has significantly reduced the value of your property, you may serve a blight notice on Highways England, asking that we purchase your property in advance of it being required for the road scheme.

You can download a blight notice, which is a prescribed form, free of charge from our website www.highways.gov.uk

Alternatively, printed copies may be obtained by calling our information line on 0300 123 5000 or by emailing us at info@highwaysengland.co.uk

6. Can anyone serve a blight notice?

No, legislation only provides for serving a blight notice on certain properties.

Firstly, your property must be either:

- (i) a hereditament (a technical term for a dwelling, business premises or mixed dwelling/business premises)
- (ii) an agricultural unit

Secondly, you must be either the freeholder or a leaseholder. If you are the leaseholder, your lease must have a period of at least three years remaining.

Thirdly, you must have an eligible interest in the land, as:

- (i) a residential owner-occupier of a private dwelling
- (ii) an owner-occupier of business premises, with a net annual (rateable) value (currently) not exceeding £34,800 per year
- (iii) an owner-occupier of an agricultural unit or part of an agricultural unit
- (iv) a personal representative of a deceased person, who at the date of his/her death would have been able to serve a blight notice
- (v) a mortgagee who has the right to sell the property and who can give immediate possession

Finally, you must have occupied the property for at least six months. In the case of a residential owner-occupier, the occupation must have been as your residence. However, if you were to move without having served a blight notice, you may still serve one, so long as it is within 12 months of you moving. However, the whole property, or the part you occupied, must have been unoccupied since you moved.

7. When can I serve a blight notice?

You cannot normally serve a blight notice until we have announced the preferred route and/or protected it with the local authority.

8. Only part of my property is on the line of the protected route. Can I still serve a blight notice?

Yes. You can only serve a blight notice in relation to the whole of your freehold or leasehold interest in your property.

If you only have an interest in part of the hereditament or agricultural unit, the blight notice must cover the whole of that part. If we think that the blight notice does not relate to the whole of your interest, it will be returned to you and will not be processed.

9. Where do I serve a blight notice?

You must serve the notice on Highways England and send it to the Highways England office dealing with the road scheme blighting your property. We will then consider the notice. We publish a list of our offices on our website www.highways.gov.uk

10. Are there any differences if a mortgagee or a representative of a deceased person serves a blight notice?

Yes, there are (see the notes at the end of this booklet).

11. Do I have to market my property before I serve a blight notice?

Yes. You must show that you have made reasonable efforts to sell the property at a realistic unblighted price and that you have been unable to do so.

The marketing evidence can include copies of press advertisements, a certificate from an estate agent that, in their opinion, your property is unsellable at a reasonable price and that marketing would be inappropriate.

If you serve a blight notice after the development consent or compulsory purchase order has been made but before you receive a general vesting notice or notice to treat, you do not need to show that you have made reasonable efforts to sell your property. However, you will still need to show us that your property is blighted.

12. How will Highways England process my blight notice?

We will check that your interest in the property qualifies for serving a blight notice (please see qualification details in answer to question 6). If we think it does not, we will reject it and return it to you explaining the reasons why.

If your property qualifies, we will then:

- (i) assess whether your property will be required for the road scheme and if so, whether the whole or only part of it will be required
- (ii) ask our valuer to confirm whether you have made reasonable efforts to sell your property at a realistic price

Where only part of your property is required for the road scheme, we will assess whether, in the case of:

- (i) a house, building or factory, the part proposed to be acquired can be taken without detrimentally affecting the house, building or factory
- (ii) a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house
- (iii) an agricultural unit, the unaffected area is reasonably capable of being farmed, either by itself or in conjunction with other relevant land (being the remainder of the agricultural unit or land comprised in any other agricultural unit occupied by you on the date you served the blight notice and of which you are the freeholder or a leaseholder with more than three years remaining on the lease), as a separate agricultural unit

We will then decide whether to accept your blight notice and offer to purchase your property, or whether to counter your blight notice by serving a counter-notice on you. Under the legislation, we can issue a counter-notice on the grounds that:

- (i) no part of the hereditament or agricultural unit is comprised in blighted land (ie, required for the road scheme)
- (ii) we do not propose to acquire any part of the hereditament or any part of the affected area of an agricultural unit

- (iii) we propose to acquire a part of the hereditament or, in the case of an agricultural unit, a part of the affected area, and do not propose to acquire any other part of that hereditament or area

However, if we are not sure how much of your property we need, and if all other legislative requirements have been met, we would normally accept the blight notice and would offer to buy the whole property.

13. How much time does Highways England have to decide my blight notice?

We have two calendar months to decide whether to object to a blight notice. This begins on the date we receive your blight notice. We will acknowledge receipt of your blight notice and tell you the date we received it, so that you know when the two months began.

14. What happens if Highways England does not serve a counter notice within two months?

If we do not serve a counter notice within two months, the blight notice automatically becomes accepted and we have to offer to buy your property.

15. Can I appeal against a counter notice?

Yes. A counter notice can be challenged in the Upper Tribunal (Lands Chamber) – the court of law appointed to deal with this sort of dispute. If you are unhappy that we have served a counter notice objecting to the blight notice, you may refer our objection to the Upper Tribunal (Lands Chamber). You have two months from the date we serve the counter-notice to do this. The Tribunal's address is

Upper Tribunal (Lands Chamber)
5th Floor, Rolls Building
7 Rolls Buildings
Fetter Lane, London, EC4A 1NL

16. What happens if Highways England serves a counter notice to acquire only part of my property?

Where we intend to acquire only part of your property and have confirmed this in a counter notice, your blight notice is valid in relation to that part only, if:

- (i) you accept our proposal to acquire only part of your property
- (ii) if the Tribunal agrees that our objection to your blight notice is correct

If the Tribunal does not believe that our objection is correct, then your blight notice is valid in relation to the whole of your property.

You have two months from the service of the counter notice to either accept our proposal to acquire only part of your property, or refer our counter notice to the Tribunal. If you do not act within this time, the blight notice lapses and is no longer valid.

17. What compensation would I receive if Highways England agrees to buy my property?

When we accept your blight notice in full (or in part), we ask our contracted independent professional valuers to negotiate the purchase price with you (or your professional representative).

In addition to full market value (ignoring the effects of the proposed road scheme on land values), you would be entitled to a home loss payment if the blight notice related to a residential property. We would also pay your surveyors' and solicitors' costs for preparing and submitting the successful blight notice but not the costs involved in marketing the property beforehand.

Depending on your reason for moving, we may also pay disturbance costs caused by our purchase – ie removal costs, alterations of fixtures and furnishings, etc. If we are purchasing a non-residential property under blight, you may be entitled to a basic or occupier's loss payment.

We, and the local housing authority, are under no duty to re-house you if we acquire your home under blight.

18. How long do I have to negotiate my compensation?

After we accept your blight notice, you have three years to complete the sale of your property to us, unless we have already taken possession of it to carry out the road scheme.

19. Can I withdraw my blight notice?

Yes, provided the purchase has not been completed; the tribunal has not assessed compensation; or we have not taken possession of your property.

20. Our commitment to be open and fair

We are open, honest and fair. We normally publish all relevant information unless it is exempt from publication under the Data Protection Act. 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.

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 **Data Protection Officer, Piccadilly Gate, Store Street, Manchester M1 2WD**. We will respond to your request within 40 days.

We are also bound by the Freedom of Information Act 2000, which aims to make information held by public authorities more accessible to the public and allows you to request a wide variety of data.

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 though to send information where one or more of the exemptions apply. For example, another person's personal details would be protected under the Data Protection Act and therefore we would not pass this information on.

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

21. 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. We are keen to hear about these and to improve the service we offer our customers wherever possible and provide redress where appropriate.

For further information about the complaints procedures, please see our website www.highways.gov.uk or call our information line on 0300 123 5000 or email us at info@highwaysengland.co.uk

22. Further information

As well as the Highways England leaflets already mentioned,

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

They are:

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.

Our website also contains general information about us and If you have any questions, you can always call our information line on

0300 123 5000 or email us at **info@highwaysengland.co.uk**

Notes

Mortgagees (mortgage lenders)

To be able to serve a blight notice, mortgagees must be able to satisfy the following statutory conditions:

- a. they must be entitled, for example by virtue of a court order, to sell property
- b. they must be able to give vacant possession
- c. except where powers of compulsory purchase have become effective in relation to the land, they must have made reasonable endeavours to sell the property
- d. they must have been unable to sell the property except at a price substantially lower than might reasonably be expected had it not been affected by the road proposals
- e. the property must be blighted land, as defined in the Town and Country Planning Act 1990. For our road schemes, that would usually be after the preferred route for the road scheme had been announced and the route protected

and either

- f. an owner-occupier or resident owner-occupier (as defined in the 1990 Act) could have served a blight notice on the date of the service of the notice by the mortgagees

or

- g. such a person could have served a blight notice during the six months preceding the date the mortgagee served a blight notice

A mortgagee may not serve a blight notice where a person entitled under the 1990 Act, or a personal representative of such a person has already served a notice and the notice is still outstanding.

Personal representatives (executors, administrators)

The personal representative of a deceased person may serve a blight notice provided the following conditions are fulfilled:

- a. at the date of his/her death the deceased was entitled to an interest in the property
- b. the property is blighted. For our road schemes this would usually be after the preferred route of the road scheme affecting the property has been announced and that route protected
- c. the interest in the property was one that would have been a qualifying interest
- d. the personal representative had made reasonable attempts to sell the property
- e. the personal representative had been unable to sell the property except at a price substantially lower than might reasonably be expected had it not been affected by the road proposals
- f. one or more individuals (but not a body corporate) are beneficially entitled to the freehold or leasehold (with more than three years left to run) interest in the property

A personal representative may not serve a blight notice where a notice served by a mortgagee is outstanding.

Where a person dies after having served a blight notice the statutory conditions relating to the service of a counter notice by Highways England or any reference of the case to the Upper Tribunal (Lands Chamber) still apply, with the personal representative of the deceased person taking his/her place as the claimant.

If you need help accessing this or any other Highways England information, please call **0300 123 5000** and we will help you.

© Crown copyright 2016.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**,

or email psi@nationalarchives.gsi.gov.uk.

This document is also available on our website at www.highways.gov.uk

If you have any enquiries about this publication email info@highwaysengland.co.uk

or call **0300 123 5000***. Please quote the Highways England publications code **PR157/15**

Highways England creative job number S150691

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

Highways England Company Limited registered in England and Wales number 09346363