

Heathrow Expansion

Draft Land Acquisition and Compensation Policies

Agricultural Land and Property

1 INTRODUCTION

- 1.1 This document sets out the draft policy of Heathrow in relation to the acquisition of agricultural property and land required in connection with the development of a new north-west runway and associated infrastructure to expand Heathrow Airport currently being prepared for an application for a Development Consent Order under the Planning Act 2008 (the “Project”).
- 1.2 We have prepared this draft policy to help potentially affected owners and occupiers of agricultural property understand our approach to land acquisition. It explains our general approach to the acquisition of agricultural property and the compensation offer we propose to make.
- 1.3 This draft policy is one of the discretionary policies that we are putting in place for those whose properties are within the area most affected by the Project or, with an interest in land required for the Project. This discretionary policy includes an enhanced compensation offer on eligible properties. In making an application in relation to these discretionary policies, the property owner must identify whether the property in question is residential, commercial or agricultural in nature, and thus which one of the discretionary policies is applicable (only one such policy may apply).
- 1.4 Our discretionary policies are intended to supplement and operate in parallel with, the existing statutory regime governing compensation for the compulsory acquisition of land. The draft policy set out in this document has therefore been developed to enhance the compensation that would otherwise be available to certain affected property owners and does not remove or limit rights that already exist in law.
- 1.5 In developing this draft policy, we have had regard to guidance published by the Department of Communities and Local Government on the compulsory acquisition procedures that apply to nationally significant infrastructure projects promoted under the Planning Act 2008.¹

2 PROPERTIES COVERED BY THIS DRAFT POLICY

- 2.1 In order to construct, operate and maintain the Project we will need to acquire a large area of land. The detailed design of the Project has not yet been established. That design will inform the extent of land that will ultimately be required.
- 2.2 As currently understood, the likely area includes residential, commercial and agricultural properties. This area of land is referred to as the Compulsory Purchase Zone (“CPZ”). The area currently anticipated to be needed (based on the scheme recommended to Government by the Airports Commission in its final report) is shown edged red on the map attached to this draft policy. A copy of the plan can be found at the attached link, allowing for some zooming in to read it in more detail: <https://www.heathrowexpansion.com/local-community/compensation-schemes/>. We estimate that there is approximately 250 hectares of agricultural land within the CPZ that will need to be acquired. This land, which is made up of a number of agricultural units, is generally between Sipson and Harmondsworth, on Harmondsworth Moor and in Stanwell.

¹ *Planning Act 2008 Guidance related to the procedures for the compulsory acquisition of land* dated September 2013. See also *Guidance on Compulsory purchase process and the Crichton Down Rules for the disposal of surplus land by, or under threat of, compulsory* dated October 2015, also published by DCLG.

2.3 This draft policy applies to agricultural units within the CPZ. An agricultural unit is land which is occupied as a unit for agricultural purposes, including any dwelling house or other building occupied by the same person for the purpose of farming the land. It is anticipated that only a small number of the properties in the CPZ will fall within this definition.

2.4 As part of the consultations in relation to our proposals, we will consult on a variety of options which may impact on the boundaries of the CPZ based on the scheme recommended to Government by the Airports Commission in their final report. This consultation exercise may change the extent of the CPZ; possible options include agricultural land located in Poyle, Harmondsworth and Stanwell Moor.

3 **GENERAL APPROACH**

3.1 Wherever practicable we will seek to acquire land by agreement, rather than compulsorily. Our intention is that farming should be able to continue normally until development consent for the Project is granted. We anticipate that this would occur in early 2021. Any agreements which we enter into before the grant of development consent for the Project, will be conditional upon the grant of that consent and Heathrow deciding to proceed with its construction. Our draft policy reflects this underlying general principle.

3.2 Given the large number of properties that need to be acquired for the Project, we need to plan for the possibility that we will not be able to acquire everything by negotiated agreement. We therefore intend to apply for powers to compulsorily acquire the land within the CPZ as part of our application for development consent for the Project. However, we would only exercise those powers where our attempts to reach agreement fail or as a backstop to obtaining possession.

3.3 We will engage with potentially affected farmers and agricultural landowners as part of the pre-application consultation in relation to our proposals. Our stage one consultation is expected to take place in early 2018 when we will consult on (among other matters) the compensation offer for agricultural properties set out in this draft policy.

3.4 We recognise the uncertainty and impact that our proposals may have on local communities, including those whose land is potentially affected. We are committed to engaging with farmers and agricultural landowners throughout the process. It is our intention to protect the most vulnerable and we have introduced an interim Property Hardship Scheme (“the PHS”) to enable those with a compelling need to move to apply to Heathrow to purchase their property early. The PHS is explained in detail in separate draft policy documents.

4 **COMPENSATION OFFER**

4.1 **What is the enhanced compensation offer?**

4.1.1 Subject to satisfying the criteria (see section 4.2 below), qualifying owners of eligible agricultural units within the CPZ will be offered:

- the unaffected open market value (excluding development value) of their property; plus
- a loss payment calculated at 25% of the unaffected market value of the farmhouse (if any, excluding development value); plus
- a further statutory loss payment calculated at 10% of the value of the land (excluding the farmhouse), capped at £100,000; plus
- Stamp Duty costs relating to the purchase of replacement property of an equivalent value; plus

- reimbursement of reasonable legal fees and relocation or other disturbance costs incurred; plus
 - where requested, a commitment to agree to purchase the whole agricultural unit, even if we do not need it all, where the owner would otherwise be left with less than 25% (in land area) of the unit outside the area identified for acquisition by Heathrow.
- 4.1.2 For the purposes of the loss payment the ‘unaffected open market value’ of the farmhouse means the open market value of the property interest ignoring any effect from the Project. The calculation of the loss payment will exclude the value of the agricultural land which is held with the farmhouse making up the agricultural unit. Any development value will not be taken into account.
- 4.1.3 This offer will not extend to agricultural units which are wholly outside the CPZ. If an agricultural unit is partly within and partly outside the CPZ, then only the part within the CPZ will be acquired by Heathrow unless the offer is extended to include the whole unit as described elsewhere in this draft policy.
- 4.1.4 If any party wishes to take advantage of this enhanced compensation offer, they must enter into a legal agreement with Heathrow before the start of the Examination into the Development Consent Order application. This agreement will set out the terms upon which Heathrow agrees to purchase the property.
- 4.1.5 In particular, owners will not be eligible for this enhanced compensation offer if they object to the compulsory acquisition of their property as part of our application for a Development Consent Order for the Project. Owners will need to agree before the beginning of the Examination into our Development Consent Order application, not to make an objection to the compulsory acquisition of the property in question and to withdraw any such objection that they may have previously made.
- 4.1.6 Parties may trigger the agreement offer after development consent has been granted for the Project and we have decided to proceed with its construction. If the party has chosen not to trigger the agreement by the time we need the property, then we would have to use our compulsory acquisition powers in respect of that property, and would therefore acquire it and pay compensation under the Statutory Compensation Code instead of this enhanced compensation offer.

4.2 **Eligibility criteria**

Owner-Occupier

- 4.2.1 To be eligible for this compensation offer as an owner-occupier of an agricultural unit or part of an agricultural unit you would need to:
- (a) have an “owner’s interest” in the unit, being a freehold interest or a leasehold interest granted or extended for a fixed term of years, not less than 3 years of which remain unexpired at the date of any claim and
 - (b) have either (i) occupied the agricultural unit for at least the six months before 17 December 2013 or (ii) if the agricultural unit was unoccupied, occupied it for at least six consecutive months before it became unoccupied within 12 months of 17 December 2013.
- 4.2.2 You would also need to show that the agricultural unit is eligible for acquisition by Heathrow under this compensation offer (i.e. that it is an “eligible property”). An agricultural unit will be eligible if it was in occupation as an agricultural unit on 17 December 2013 (as defined in paragraph 4.2.1).

- 4.2.3 Heathrow has adopted this approach to eligibility to provide an enhanced compensation offer to people who may have purchased their property without awareness that they might potentially be affected by the new north-west runway. The date of 17 December 2013 was when the Airports Commission short-listed our north-west runway scheme. From this date, prospective purchasers could reasonably be expected to have been aware of the proposals for the Project and that a new north-west runway at Heathrow was a realistic prospect.

Change of ownership

- 4.2.4 If an owner-occupier's interest (as defined in paragraph 4.2.1) in an eligible property (as defined in paragraph 4.2.2) is sold after 17 December 2013 to someone other than Heathrow, then eligibility to apply for the compensation offer set out in this draft policy would transfer with that transaction. This means that a new owner of that property interest will be entitled to receive the compensation offer, even if they do not occupy the agricultural unit.
- 4.2.5 Heathrow has adopted this approach to ensure that the property market continues to function and that owner-occupiers can continue to buy/sell property interests as usual, notwithstanding our proposal to bring forward the new north-west runway.

Ineligible owners and occupiers

- 4.2.6 Owners and occupiers of agricultural land within the CPZ who are not eligible for the offer, may still be entitled to compensation assessed in accordance with the Statutory Compensation Code.

4.3 **Whole or part unit**

- 4.3.1 The offer to purchase the land that we need will, at the owner's request, be extended to include the whole unit where the owner would be left with less than 25% of the pre-existing agricultural unit outside the CPZ.
- 4.3.2 To be eligible an owner must also sell the entirety of their interest which falls within the CPZ.
- 4.3.3 In circumstances where the resulting sale to Heathrow would leave the owner with part of the agricultural unit outside the CPZ, Heathrow will agree and reimburse the reasonable costs of necessary accommodation works required on the retained land. Examples of such works include access, fencing, drainage and reconnection of services. Where the costs of such accommodation works would exceed the value of the retained land, Heathrow reserves the right to acquire that land instead of funding those accommodation works.
- 4.3.4 Owners who retain part of a unit which is outside the CPZ may still be entitled to claim compensation in accordance with the Statutory Compensation Code in relation to their retained land. In accordance with the Statutory Compensation Code, Heathrow may be required to acquire the whole if the farm buildings are within the area required and cannot be taken without material detriment to the remainder, causing the remainder to be significantly less useful or less valuable. This material detriment will be assessed in accordance with the Statutory Compensation Code.

4.4 **Inherited property**

- 4.4.1 A person who inherits an owner-occupier's interest (as defined in paragraph 4.2.1) in an eligible property within the CPZ after 17 December 2013, will be entitled to receive the compensation offer if they enter into an agreement to sell the property to Heathrow, and choose to trigger that agreement after Heathrow has been granted Development Consent and decided to proceed with the Project. As in all other cases, the terms of the agreement for the sale of the agricultural unit to Heathrow would need to be agreed before the start of the Examination of the Development Consent Order application.

4.4.2 A person who inherits an owner-occupier's interest in an eligible property within the CPZ after 17 December 2013 and subsequently sells the property on the open market, will be entitled to sell with the benefit of this compensation offer (which will transfer with the sale).

4.5 **Valuation**

4.5.1 If an agricultural unit in the CPZ is purchased by Heathrow under the terms of this draft policy, it would be valued by two independent qualified members of the RICS (Royal Institution of Chartered Surveyors) who have experience of valuing agricultural property, one appointed by Heathrow and one appointed by the owner of the agricultural unit. The valuers will be chosen from a panel of independent valuation firms drawn up by Heathrow. The valuations will be paid for by Heathrow. The average of these two valuations would then become the offer price. If these differ by more than 10%, a third valuer would be appointed by Heathrow and the offer price will be the average of the closest two valuations.

4.5.2 As an alternative to using the panel, owners can choose to commission an independent valuation of their own and Heathrow will take this as the owner's valuation. However, if they choose to do so the cost of this valuation must be borne by the owner and Heathrow will not contribute towards those costs. As before, in the event the two valuations differ by more than 10%, the third valuation from the panel will be introduced.

4.5.3 Each agricultural unit will be valued individually to establish its 'unaffected open market value' as land in lawful agricultural use. This means the market value ignoring any effect from Project as defined in the DCO, and also ignoring any development value.

4.5.4 The valuations will be undertaken with reference to the value of the agricultural unit on the date on which the application for this compensation offer is accepted by Heathrow. That date will become the 'Valuation Date'. The valuation generated by the process will then be index linked until the date on which Heathrow take possession of the property. If Heathrow does not purchase the property until more than 5 years after the Valuation Date, Heathrow may require the property to be 're-valued' in accordance with the procedure outlined in paragraph 4.5.1, to ensure fairness.

4.6 **Relocation costs**

4.6.1 Heathrow will reimburse the owner for reasonable costs associated with the purchase of replacement land. These costs will be assessed in accordance with the Statutory Compensation Code.

4.6.2 Heathrow is considering establishing an agency service to assist those landowners that will have land and property acquired. The service could help landowners ascertain their property requirements and provide information on appropriate alternatives to meet their reasonable accommodation needs. It could also work with property agents, landowners, and developers as well as Local Enterprise Partnerships, local authorities and other relevant organisations identified to ensure reliable and effective information is provided. The agency would not act as adviser or negotiator to affected landowners in formulating their claims for compensation.

4.6.3 Claimants may be able to recover reasonable professional costs of appointing their own agents for such purposes (see further our separate draft policy on Professional Fees).

4.6.4 It is anticipated that compensation payments under the Statutory Compensation Code will fund the relocation of operations. On acquisition of the property by Heathrow, owners and occupiers can request payment of the agreed compensation figure.

- 4.6.5 As a discretionary measure, Heathrow may offer financial support in advance of Heathrow acquiring the property in order to assist with relocation of an agricultural enterprise. This could comprise early reimbursement of reasonable and properly incurred expenditure which is deemed by Heathrow to be essential for relocation at the time, for example payment of reasonable and properly incurred interim professional fees, to support cash flow. The availability of such financial support will be dependent on, among other things, Heathrow obtaining all necessary budgetary and other approvals (for example from our regulator the Civil Aviation Authority), obtaining Development Consent, the circumstances of each individual case and subject to the negotiation of suitable terms.

5 **STATUTORY COMPENSATION CODE**

- 5.1 The enhanced compensation offer for agricultural landowners as set out in this draft policy, is being put in place to enhance the compensation that would otherwise be available to certain affected property owners and it does not remove or limit rights that already exist in law.
- 5.2 Under the Statutory Compensation Code an owner-occupier of a farmhouse in the CPZ would receive a home loss payment, currently capped at £61,000. This compensation offer entitles qualifying owners to a 25% loss payment for the farmhouse under this draft policy. The loss payment due on the value of the agricultural land will be the same under both the Statutory Compensation Code and the Heathrow compensation offer, currently 10% of value capped at £100,000.
- 5.3 Anyone with whom we do not manage to reach agreement in respect of this discretionary policy, will receive compensation in accordance with the Statutory Compensation Code in the event that their property is compulsorily acquired.

Map of areas covered by this draft policy
Area currently understood to be in the CPZ and WPOZ.

