

# Guide to Statutory Blight Notices

Land and Property

## Introduction

This guide aims to inform you about statutory blight which may be caused by the East West Rail Project. It has been produced to help you to understand whether your property may be affected and the options available to you.

This guide is part of a suite to provide information to landowners that may potentially be affected by the East West Rail Project. This includes where land would be directly required by the project (compulsory acquisition and compensation), or where owner-occupiers have difficulty selling their property due to our proposals (Need to Sell Property Scheme and Statutory Blight Notices) or impact on land in the event the project is constructed and comes into operation (Part 1 Claims).

## Key information

As part of our planning process we would seek the appropriate power for compulsory acquisition of land and property needed for East West Rail. However, before we would compulsorily acquire any land for the railway the project would need to move through a number of development stages and approvals, including two more periods of public consultation. These are summarised in our document “East West Rail and the Development Consent Order Process”, available on our website [www.eastwestrail.co.uk](http://www.eastwestrail.co.uk).

We know the possibility that we may need to ultimately purchase your land and property may concern you, and we will follow these five principles to seek to minimise the impact on you if you are potentially affected by the project.

- **Keep you updated:** We will keep you updated throughout the project and keep you informed as our proposals develop.
- **Act with respect:** We will treat you, your land, property and personal data, and third parties acting for you with respect. We will work collaboratively with you and any third parties acting for you.
- **Minimise land take:** We will discuss our proposals with you, so we understand and manage the impacts to you. We aim to minimise the negative impact our proposals may have on your land and property and mitigate any impacts we cannot avoid where possible.
- **Fair compensation:** Where we would need to acquire your land for the project, we would compensate you fairly in accordance with the statutory compensation code and we would seek agreements with you.
- **Dedicated contacts:** Our dedicated, specialist Land and Property team is in place to ensure you have consistent and well-briefed contacts with the project.

**You should consider taking independent professional advice if your land or property is potentially affected by the East West Rail Project.**

## **What is East West Rail?**

East West Rail is a proposed new rail link, which would connect communities between Oxford, Milton Keynes, Bedford and Cambridge. By making it cheaper and quicker to get around, by making it easier to develop more homes for people and by boosting local economies, the new railway line aims to create a range of opportunities for people right across the area and to help spread prosperity across the UK, by supporting opportunities for economic growth in towns and cities outside London.

The East West Railway Company (EWR Co) is responsible for developing the East West Rail Project and was created to plan a railway with customers and communities at its core. The project is being delivered in stages. Trains are already running between Oxford and Bicester, and we aim to have trains running the full length of the line between Oxford and Cambridge by the end of the decade.

Further information about East West Rail can be found on our website:  
[www.eastwestrail.co.uk](http://www.eastwestrail.co.uk).

## **What is Statutory Blight?**

Properties which are within the limits of the line of a proposed railway route, and where land would be required for the project, can be directly affected by blight; this is known as Statutory Blight. Blight is when the value of a property is reduced because of a large scale or major public works proposal, and the owners are unable to sell their property at market value.

Under the Town and Country Planning Act 1990 (as amended) we would have, in specified situations, legislative powers to buy blighted land and property. We would acquire blighted properties at their unaffected market value; this is the amount the property would be worth if the project did not exist, not the blighted (lower) value.

## **When would a Statutory Blight notice be submitted?**

Statutory Blight is normally triggered by an application for a Development Consent Order (“DCO”). Property owners within the limits of the line of the railway could then ask us to buy their property. Claims for statutory blight cannot be made before this time.

## **Applicant eligibility (qualifying interests)**

Statutory Blight notices could be served by both freeholders and leaseholders, providing the lease has at least three years remaining. To be eligible you would need to have an interest in the land as one of the following:

- A residential owner-occupier of a private dwelling.
- An owner-occupier of business premises with a rateable net annual value not currently exceeding £36,000 per year (at the time of publication, but please note it is varied from time to time). The rating office at your local council would be able to tell you the annual rateable value of your property.

- An owner-occupier of an agricultural unit or part of an agricultural unit.
- A mortgage lender who has the right to sell the property and who could give immediate possession.
- A personal representative of a deceased person who, at the date of his/her death, would have been able to serve a Statutory Blight Notice.

Applications could be made for homes, business premises or agricultural units provided you had occupied the property for at least six months. If you moved out of a property without serving a Statutory Blight Notice, you could still serve one within 12 months providing the property had been unoccupied since you moved.

We could only consider Statutory Blight Notices for the whole of your freehold or leasehold property, even if only part of the property is in the line of the preferred route alignment.

### **Reasonable efforts to sell the property**

Properties are considered blighted by a rail scheme when, as a result of them being within the limits of the line of the rail scheme, the owners are unable to sell at market value. Therefore, to be eligible to serve a Statutory Blight Notice you would need to be able to show that you have made reasonable efforts to sell the property at a realistic price and that you have been unable to do so. You would need to enclose marketing evidence with your Statutory Blight Notice, such as copies of advertisements and any offers received. However, in some cases an estate agent may provide confirmation that your property would be unsaleable at a reasonable price and that marketing would be inappropriate.

If you serve a Statutory Blight Notice after the Development Consent Order had been granted but before you had received notice that we intended to enter your property, you would not need to show that you have made reasonable efforts to sell your property. However, you would still need to show us that your property is blighted.

### **Requesting and submitting a statutory blight notice**

You would be able to request a Statutory Blight Notice form from us.

You should keep a copy of your completed claim form. Using a type of postal delivery that provides you with proof of posting would be advisable in case your claim did not reach us and we would need to be sure that a claim was, in fact, made.

We would confirm receipt of your Statutory Blight Notice.

### **How we would process a Statutory Blight Notice**

We would check that you have a qualifying interest in the property. If you did not, we would return your notice. If your interest in the property qualified for blight, we would:

- Assess whether any or all of your property would be required for the rail project.
- 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 would be required for the rail project we would assess the following:

- In the case of a house, building or factory, whether the part required could be taken without detrimentally affecting the house, building or factory.
- In the case of a park or garden belonging to a house, whether the part required could be taken without seriously affecting the amenity or convenience of the house.
- In the case of an agricultural unit, whether the unaffected area could still be farmed either by itself or with other land you own or land you lease, with at least three years remaining on the lease at the time you submitted the Statutory Blight Notice.

Within two months of receiving your Statutory Blight Notice we would decide whether to accept it or not.

### **Your options if we served a counter-notice**

We may serve a counter-notice to reject your Statutory Blight Notice. We may also serve a counter-notice to acquire only part of the property and if you accepted it, your Statutory Blight Notice would become valid only for the part we intended to acquire.

You would have two months from when we served a counter-notice to accept our proposal to acquire only part of your property. If you did not act within this time, the Statutory Blight Notice lapses and would be no longer valid.

Alternatively, if you disagreed with our decision to serve a counter-notice, either rejecting your Statutory Blight Notice or offering to acquire only part of your property, you could challenge this in the Lands Chamber of the Upper Tribunal. The Tribunal is the court of law appointed to deal with these types of disputes. You would have two months from the date we served the counter-notice to do this. The Tribunal's address is:

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

If the Tribunal did not believe that our objection was correct, then your Statutory Blight Notice would be valid and would apply to the whole of your property.

### **Compensation**

Where we accepted your Statutory Blight Notice, either in full or in part, we would ask our contracted independent, professional valuers to begin compensation negotiations with you.

You would be entitled to the full unaffected market value of your property. This is the amount the property would be worth if the scheme did not exist, not the blighted (lower) value. If the Statutory Blight Notice related to a residential property, you would also be entitled to a Home Loss Payment. If we were purchasing a non-residential property under blight, you may be entitled to Basic and Occupier's Loss Payments.

We would also pay your surveyor's and solicitor's reasonable costs for preparing and submitting the successful Statutory Blight Notice. However, we would not pay the costs involved in marketing the property beforehand. We would ask you to say whether you would like us to pay the fees directly to the agent or to you so that you could arrange for your agent to be paid. Even if the Statutory Blight Notice is successful, we would not pay:

- Any charges your agent may seek from you that are additional to the reasonable fees agreed for the preparation and negotiation of your notice and claim.
- The fees of more than one agent.
- Solicitor's costs that have been unnecessarily incurred for proving your ownership of the property.
- Any charges made by your mortgage lender relating to our legal obligation to offer the compensation to the lender before you.

We may pay disturbance costs that would be caused by our acquisition, such as removal costs and alterations of fixtures and furnishings.

After we accepted your Statutory Blight Notice you would have three years to complete the sale of your property to us, unless we had already taken possession of it to carry out the rail project.

It is important to note that neither we, nor any housing authority, would have any duty to re-house you if we were to acquire your home under blight.

**The legislation and case law for compulsory acquisition and compensation is complex. We recommend that you seek independent professional advice if your property is potentially affected by the project.**

### **Referring compensation disputes to the Upper Tribunal (Lands Chamber)**

We would like to reach a compensation agreement with you and would work with you throughout the process. However, there may be cases which we could not agree. In this situation you could refer your claim to the Lands Chamber of the Upper Tribunal. The Upper Tribunal is the court of law appointed to deal with these types of disputes. To refer your case to the Upper Tribunal, you would need to submit an application in writing to:

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

## **Withdrawal of your blight notice**

You could withdraw your Statutory Blight Notice provided:

- The acquisition had not been completed.
- The Upper Tribunal (Lands Chamber) had not assessed compensation.
- We had not taken possession of your property.

## **Statutory Blight Notices from mortgage lenders**

Mortgage lenders could serve Statutory Blight Notices for property on the line of the rail project. To do so they would need to be able to satisfy the following statutory conditions:

- Be entitled (for example: by virtue of a court order) to sell the property.
- Be able to give vacant possession.
- Had made reasonable endeavours to sell the property, except where powers of compulsory acquisition would have become effective in relation to the land.
- 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 proposed scheme.

A mortgage lender may not serve a Statutory Blight Notice where another person had already served a notice and the notice was still being reviewed.

## **Statutory Blight Notices from personal representatives of a deceased person**

The personal representative of a deceased person (including executors and administrators) may serve a Statutory Blight Notice for property on the line of the scheme provided:

- At the date of his/her death the deceased was entitled to a qualifying interest in the property.
- The personal representative had made reasonable attempts to sell the property.
- The personal representative had been unable to sell the property except at a price which was substantially lower than might reasonably be expected, had it not been affected by the rail proposals.
- One or more individuals (but not a corporate body) were beneficially entitled to the freehold or leasehold (with more than three years left to run) interest in the property.
- A Statutory Blight Notice served by a mortgage lender was not outstanding.

Where the person who served the Statutory Blight Notice had passed away, a personal representative could become the claimant. If appropriate, a counternotice could still be served or the case could be referred to the Upper Tribunal (Lands Chamber).

### **Who can you speak to if you have questions or concerns?**

The specialist Land and Property team at EWR Co are available if you wish to talk about our proposals, tell us your views and also to answer your questions. You will be able to contact our Land and Property team at any point during the project in different ways as set out below:

- Email us at: [land@eastwestrail.co.uk](mailto:land@eastwestrail.co.uk)
- Call us on: **0330 838 7583**
- Send us a message online at: [www.eastwestrail.co.uk/get-in-touch](http://www.eastwestrail.co.uk/get-in-touch)

If you have issues, concerns or wish to make a complaint please don't hesitate to get in touch so we can work with you to investigate and quickly find a good resolution. You can contact us via the above details.

### **Where can you find further information?**

Visit our website: [www.eastwestrail.co.uk](http://www.eastwestrail.co.uk)

We have created a number of resources to provide further information for people whose land or property is potentially affected by our project. These can be found on the land and property page of our website: [www.eastwestrail.co.uk/theproject/land-and-property](http://www.eastwestrail.co.uk/theproject/land-and-property)

These include guides on:

- Compulsory Acquisition and Compensation
- Part 1 Claims: How to claim for the effects on your property for a new or altered railway
- Need to Sell Property Scheme