Item 12.c.v. Summary of legal advice re “Bringing into use” applications for HS2.

"The Open Spaces Society has obtained a legal opinion on a special category of HS2 planning applications. The type of application for "bringing into use" often relates to bridges and underpasses, where there's the possibility that people could come to harm if farm animals or horses are panicked by the sight or sound of the high-speed trains.

Numerous structures of this type are included in the HS2 project, and the legislation doesn't allow them to be brought into use until the Local Planning Authority has approved any measures needed to reduce their local impact. However, HS2 Ltd argue these measures only relate to the impact of the structure itself, and any measures to reduce possible auditory and visual shock can be left for approval at a much later date, when the railway line itself is put forward for approval.

This view is considered incorrect, as the wording in the legislation includes the "operation" of each structure, which in the case of bridges and underpasses, means people going over, or under, the line. Consequently, the view is that the Local Planning Authority, when giving approval for bringing into use, must require implementation of what's called a "Scheme of Mitigation", to protect people from any harms revealed when testing of the trains is carried out during commissioning of the line.

Requiring a scheme of mitigation at this stage should ensure that possible risks to people aren't overlooked in the final stages of getting the HS2 line running."

R Lloyd 16 July 2026