

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS) BILL

Against – On Merits – Praying to be heard by counsel, &c.

TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED.

THE HUMBLE PETITION of *Mr Marcus Nadel*

SHEWETH as follows:-

1. A Bill (hereinafter referred to as "the Bill") has been introduced and is now pending in your honourable House intituled "A Bill to make provision for a railway between Euston in London and a junction with the West Coast Main Line at Handsacre in Staffordshire, with a spur from Old Oak Common in the London Borough of Hammersmith and Fulham to a junction with the Channel Tunnel Rail Link at York Way in the London Borough of Islington and a spur from Water Orton in Warwickshire to Curzon Street in Birmingham; and for connected purposes."
2. The Bill is presented by Mr Secretary McLoughlin, supported by The Prime Minister, The Deputy Prime Minister, Mr Chancellor of the Exchequer, Secretary Theresa May, Secretary Vince Cable, Secretary Iain Duncan Smith, Secretary Eric Pickles, Secretary Owen Paterson, Secretary Edward Davey, and Mr Robert Goodwill.
3. Clauses 1 to 36 set out the Bill's objectives in relation to the construction and operation of the railway mentioned in paragraph 1 above. They include provision for the construction of works, highways and road traffic matters, the compulsory acquisition of land and other provisions relating to the use of land, planning permission, heritage issues, trees and noise. They include clauses which would disapply and modify various enactments relating to special categories of land including burial grounds, consecrated land, commons and open spaces, and other matters, including overhead lines, water, building regulations and party walls, street works and the use of lorries.
4. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
5. Clauses 43 to 65 of the Bill set out a number of miscellaneous and general provisions, including provision for the appointment of a nominated undertaker ("the Nominated Undertaker") to exercise the powers under the Bill, transfer schemes, provisions relating to statutory undertakers and the Crown, provision about the compulsory acquisition of land for regeneration, reinstatement works and provision about further high speed railway works. Provision is also made about the application of Environmental Impact Assessment Regulations.

6. The works proposed to be authorised by the Bill ("the Authorised Works") are specified in clauses 1 and 2 of and Schedule 1 to the Bill. They consist of scheduled works, which are described in Schedule 1 to the Bill and other works, which are described in clause 2 of the Bill.

7. Your Petitioner is **Mr Marcus Nadel** (hereinafter referred to as 'the Petitioner'), **Mr Marcus Nadel** of **50 Byfield Road, Chipping Warden, Banbury, OX17 1TP** ('the Property').

8. Your Petitioner's Property is located in the vicinity of a planned tunnel proposed to be constructed in **Chipping Warden** which is required under the current plans to construct HS2 and your Petitioner is concerned about the individual and cumulative impacts on their Property which will be injuriously affected by the works authorised by the Bill.

#### 9. **Limits of Deviation**

9.1 Your Petitioner is concerned that paragraph 1(2) of Schedule 1 of the Bill provides that in constructing or maintaining any of the scheduled works the undertaker can deviate vertically upwards not exceeding three metres, vertically downwards to any extent and laterally to any extent within the limits of deviation shown on the deposited plans.

9.2 Your Petitioner is concerned that these deviations could potentially make significant differences to the impacts of the construction and operation of the high speed railway and associated development, for example by raising the track height to the detriment of the amenity of the landscape. These potential environmental impacts are not adequately addressed in the environmental statement, which provides that the undertaker only has to use reasonable endeavours to adopt measures to reduce adverse environmental effects provided it does not add unreasonable cost or delay to the construction and operation.

9.3 Your Petitioner requests that the provisions in the Hybrid Bill to allow deviation should be deleted.

#### 10. **Noise**

10.1 Your Petitioner is concerned about the effects of noise arising from the construction of the high speed railway and associated development including heavy lorry traffic.

10.2 Your Petitioner is also concerned that the operation of the high speed railway will give rise to noise. Noise would severely impact upon the use and enjoyment of the Property by your Petitioner as well as on the neighbourhood's amenity.

10.3 Your petitioner is concerned that the fundamental calculations needed for forecasting noise impacts, known as the Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL) have not been correctly identified and were set too high in the Environmental Statement, leading to material underestimation of the adverse noise and significant adverse noise impacts likely to arise from the high speed railway.

- 10.4 Your Petitioner requests that the nominated undertaker should be compelled to use best available techniques in the construction and operation of the high speed railway and its associated development to ensure that no noise can be felt in the Property and there are no other adverse effects.
- 10.5 Your petitioner is concerned that the thresholds adopted in the Environmental Statement for noise limits were set above what the World Health Organisation considers acceptable. Your petitioner considers this issue is likely to become more pressing given the moves by the World Health Organisation to set new lower targets on the basis of the latest medical research on the impact of noise on human health
- 10.6 Your petitioner is concerned that the specific impacts of groundborne noise have not been properly considered or explained to impacted communities and the limit for groundborne noise does not reflect recent or practice or experience and the methodology used for predicting the impact of groundborne noise is insufficiently robust and no amelioration measures have been suggested to deal with this problem.
- 10.7 Your petitioner therefore requests
- 10.7.1 HS2 Ltd be instructed to issue revised noise thresholds covering the LOAEL and SOAEL for noise exposure, in rural and urban areas and during the day and at night-time which reflect World Health Organisation guidelines including World Health Organisation guidelines on peak noise (60db max pass-by outside, giving 45db inside).
- 10.7.2 HS2 Ltd be required to set noise limits for construction which are in line with World Health Organisation limits and local authorities be provided with enforcement powers to order the cessation of construction activities in the event such anticipated exposures are breached.
- 10.7.3 HS2 Ltd be obliged to commit to designing the high speed railway to operate in such manner that the revised noise exposures are not breached.
- 10.7.4 A binding requirement included in the Bill for noise monitoring with obligations on HS2 Ltd to introduce additional mitigation measures, including reduction in train speeds, in the event forecast noise levels are exceeded.
- 10.7.5 HS2 Ltd be required to commit to the same threshold for ground borne noise as the Northern Line Extension- meaning groundborne noise levels no greater than 25dB LpAsmax for rural areas and 30dB LpAsmax for urban areas.
- 10.8 Your Petitioner requests that there should be binding mitigation measures including an effective noise mitigation and monitoring system in place before commencement and during construction and operation of the high speed railway and associated development.
- 10.9 The binding mitigation and monitoring measures should be decided by a panel of independent experts on the basis of independent expert evidence. For example the House of Commons Environmental Audit Committee's report entitled *HS2 and the environment thirteenth Report of Session 2013-2014* dated 7 April 2014 recommended an independent body to monitor and publically report on all aspects of environmental protection needed for 60 years. Binding mitigation measures should

include but not be limited to full noise barriers and noise insulation for buildings and re-housing. The trigger levels at which point noise mitigation becomes necessary should be reduced.

10.10 Your Petitioner is concerned that Clause 35 of the Bill and Schedule 25 provide that appeals against notices or against failure to give consent or the giving of qualified consent under the Control of Pollution Act 1974, section 60 (control of noise) and section 61 (prior consent for work on construction sites) may be referred to the Secretary of State or arbitration. Your Petitioner is also concerned that Schedule 25 would provide a defence to statutory nuisance for the nominated undertaker.

10.11 Your Petitioner requests that Clause 35 and schedule 25 are deleted from the Bill.

## **11. Waste**

11.1 Your Petitioner is concerned that the impact on local communities of the amount of waste to be excavated and removed from the construction of the high speed railway has been underestimated and the environmental impacts of removal and disposal of such waste has been needlessly worsened because of the primacy (in UK and EU law) of the requirement to seek to avoid disposal of waste and comply with the principles of the waste hierarchy has been ignored by HS2 Ltd.

11.2 Your petitioner is concerned that the forecasts provided for each Community Forum Area for amounts of waste to be excavated and removed from that area appear to be contradictory and take insufficient account of local authority planning policies.

11.3 Your petitioner requests that: HS2 Ltd be required to comply with the requirements of the Waste Framework Directive and review its decisions on treatment of waste to ensure compliance with the waste hierarchy as detailed in that Directive. Such review should include publishing details of the "integrated design approach" to waste management and subject to consultation to enable effective public participation on this issue.

## **12. Ground Borne Noise**

12.1 Your Petitioner is concerned about the effects of ground borne noise arising from the construction and operation of the high speed railway. Ground borne noise will severely impact upon the use and enjoyment of the Property by your Petitioner.

12.2 Your petitioner is concerned that noise thresholds used in the Environmental Statement are inappropriate and have not been justified by reference to relevant British standards or World Health Organisation guidelines. In particular levels adopted in the Environmental Statement in respect of ground borne noise do not represent thresholds derived by reference to adverse effects that can be observed; rather they are levels that relate to likelihood of complaint. It follows that the appraisal in the Environmental Statement of ground borne vibration is entirely flawed. Your petitioner submits that the noise thresholds adopted by HS2 in respect of ground borne noise does not reflect recent practice or experience. Your petitioner is also concerned that the prediction methodology detailed in the Environmental Statement is not sufficiently robust.

- 12.3 Your Petitioner requests that arrangements should be put in place to ensure your Petitioners property is not impacted by vibration and in the event vibration is experienced in your petitioner's property your Petitioner submits that HS2 Ltd should be subject to binding mitigation requirements, including a requirement to reduce the speed of the trains travelling on its tracks to such extent that vibration would no longer be noticeable or to acquire your petitioners property at a fair market value.
- 12.4 Your Petitioner requests that the nominated undertaker should be compelled to use best available techniques in the construction and operation of the high speed railway and its associated development to ensure that no vibration can be felt in the Property and there are no other adverse effects including using track bed, ballast and track technology utilised in other countries and on parts of Crossrail to minimise risk of ground borne noise.

### 13. **Air Quality**

- 13.1 Your Petitioner is concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development.
- 13.2 Your Petitioner requests that before construction there should be an air quality baseline monitoring study benchmarked against the Air Quality Standards Regulations 2010 and a copy of this report should be made public. Your petitioner submits that thresholds for air quality and an air quality mitigation plan should be produced for each Community Forum Area, to apply both during construction and operation of HS2.
- 13.3 Your Petitioner requests that the local authority should be provided with powers to monitor air quality in accordance with binding mitigation plans and in the event air quality thresholds are breached, your Petitioner submits that the Bill should be amended to enable the local authority to require the cessation of construction activities until such point as air quality thresholds are complied with.

### 14. **Visual amenity**

- 14.1 Your Petitioner is concerned about adverse impacts on the visual amenity of the Property and the neighbourhood during construction and operation of the high speed railway and associated development in particular from the construction of vents and other buildings related to the construction of a tunnel. Your petitioner is concerned that these construction activities will be extremely disruptive to the local community and permanently disrupt visual amenity.
- 14.2 Your petitioner notes that HS2 Ltd have promised to create a national panel to oversee the design of structures required to build the high speed railway yet no such body has yet been set up. Your petitioner also draws your attention to the concerns expressed by the Campaign to Protect Rural England concerning the design of structures for the high speed rail.
- 14.3 Your Petitioner requests that there should be binding mitigation measures to reduce the adverse impacts on visual amenity and the nominated undertaker should provide plans which demonstrate how new buildings will blend in with the surroundings and are well maintained. Your petitioner further requests that a national panel, comprised

of persons independent of the nominated undertaker, be appointed without delay to oversee the design of structures required to build the high speed railway.

## **15. Hydrology**

- 15.1 Your Petitioner is concerned about the danger of water pollution arising from the construction and operation of the proposed high speed railway and associated development and the run-off into surrounding watercourses, as well as the expected flow rates or impact on surrounding transport links.
- 15.2 Your Petitioner requests that throughout construction there should be sampling of surface water at different locations surrounding each construction site and these samples should be independently tested at a United Kingdom accreditation service laboratory. The results from the sampling should be shared with the Environment Agency and the relevant local authority. The results should be benchmarked against accepted water quality levels.
- 15.3 Your Petitioner is concerned that the Hybrid Bill seeks to undermine long standing and important legal safeguards concerning the safety of drinking water. Your Petitioner requests that Clause 31 and schedule 20, which override key legal safeguards that protect public water supplies be deleted from the Hybrid Bill.

## **16. Compensation where Property is not acquired**

- 16.1 Your Petitioner submits that the compensation provisions in relation to property that is not compulsory acquired are not sufficient to compensate your Petitioner adequately for the loss and damage they may incur as a result of construction and operation of the high speed railway and associated development.
- 16.2 Your Petitioner requests that the Bill should be amended to ensure your Petitioner and other persons outside the safeguarding area who are injuriously affected and adversely affected by loss of value should be entitled to claim compensation.
- 16.3 Your Petitioner requests that the voluntary purchase announced on 9 April 2014 should be extended to all properties outside of the safeguarded area and should not be limited to rural areas.
- 16.4 Your Petitioner requests that the home owner cash payments should be extended to all areas within the vicinity of the proposed high speed railway line and the payment should be calculated so that all diminution in value is compensated.

## **17. Ecology**

- 17.1 Your Petitioner is concerned about the adverse impacts of the construction and operation of the high speed railway and associated development on fauna and flora. Your Petitioner submits that there should be binding mitigation measures to reduce the adverse impacts on ecology including but not limited to avoiding ancient woodland, migration routes for wildlife across construction sites and the operational high speed railway and associated development, and compensatory measures to offset habitat loss and other damage to species.
- 17.2 Your Petitioner requests that in accordance with the House of Commons Environmental Audit Committee Report dated 2 April 2014, a process should be

established to monitor all aspects of environmental protection needed for 60 years following the start of construction and operation of the railway, including biodiversity mitigations, compensation off-set. This process must be managed by an independent body, which monitors and publicly reports progress against the "no net biodiversity loss" objective. A detailed costing should also be established for monitoring and reporting and for the environmental protection being overseen, and ring-fence these environmental protections and a separate budget for these purposes.

18. Your Petitioner requests that other recommendations in the House of Commons Environmental Audit Committee Report dated 2 April 2014 are also followed including but not limited to the revising the environmental statement to distinguish clearly between mitigation and compensation measures in respect of biodiversity, carry out outstanding environmental surveying as soon as possible, weighting metrics for biodiversity offsetting towards production of biodiversity gains and taking explicit account of communities' wellbeing, adjusting metrics to encompass the precautionary principle, treatment of ancient woodlands should be separately from the overall biodiversity net loss calculation, re-examining scope for off-site biodiversity compensation, research on alternative discount factors for the off-setting metric.

**19. Code of Construction Practice**

- 19.1 Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified. The Code of Construction Practice does not identify how any lead contractors will be made to comply and the redress and appropriate action that might be taken in the event that the contractors do not comply with the Code of Construction Practice. Assessment in the environmental statement is made on the assumption that the Code of Construction Practice and the strategies will be fully effective, however, the Code of Construction Practice has no legal status.
- 19.2 Your Petitioner submits that the Code of Construction Practice should be incorporated into the Bill. Parliament and not the nominated undertaker should be accountable for the project. Any monitoring required under the Code of Construction Practice should involve the relevant local authority as well as independent experts.
- 19.3 The standards set out in the environmental statement and the Code of Construction Practice is of "reasonableness" and "reasonable endeavours". Your Petitioner submits that this should be replaced by a higher standard, i.e. "best practical means" and the measures should be agreed with the relevant local authority and Community Forum Area. Measures should be subject to independent assessment verifiable and challengeable. This applies to noise as well as other effects that are to be addressed in the Code of Construction Practice.
- 19.4 Your Petitioner submits that a specific construction management plan should be produced to manage and co-ordinate the operation of construction camps which should clearly outline the phases of activity and a co-ordinated management of their interaction, and a framework for enforceable measures. A construction management plan should be available to each Community Forum Area showing the timetables and community impact, as well as mitigation measures.

- 19.5 Your Petitioner submits that clear and easy to follow enforcement mechanisms for local communities and local authorities should be included in the Bill. This would provide a commitment to rectify or compensate for environmental impacts.
20. In light of the above, the Petitioner reserves the right to raise the above matters and any further matters of concern relating to the substance of the Bill and this Petition that may arise from continuing discussions, the preparation and publication of reports, any possible revisions that may be made to current work site proposals or any other matters relevant to our expressed concerns that may occur in due course and prior to our representation before the Select Committee.
21. For the foregoing and connected reasons your Petitioner respectfully submits that, unless clauses of the Bill are removed or amended, then the Bill should not be allowed to pass into law.
22. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights, (including their human rights) interests and property and for which no adequate provision is made to protect your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONER THEREFORE HUMBLY PRAY your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by their Counsel, Agents and witnesses in support of the allegations of this Petition against such of the clauses and provisions of the Bill as affect the property, rights and interests of your Petitioner and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c

SIGNED



IN PARLIAMENT  
HOUSE OF  
COMMONS  
SESSION  
2013- 2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS BILL)

PETITION OF *Mr Marcus Nadel*

AGAINST, By counsel, &c

*Marcus Nadel*

**MOTION. 11/11/13**