

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 *GRAHAM LOCK*

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 Graham Lock (hereinafter referred to as ‘the Petitioner’), owner of Beehive Cottage, Lavender Hall Lane, Berkswell CV7 7BL (‘the Property’).

7.1 Berkswell village and Parish lies in the ‘Meriden Gap’ – the narrowest part of the West Midlands Green Belt between Birmingham, Solihull and Coventry. The Parish is the most easterly area of Solihull Metropolitan Borough and borders Coventry. The village consists of less than 200 households, while the Parish has a population of just over 3,000, 1.5% of the Borough.

7.2 Berkswell is a small former “estate” village in an attractive rural setting between Coventry and Solihull, and despite many external pressures remains a thriving community, with a highly regarded primary school, popular church, village stores and C17th public house.

7.3 The village and surrounding countryside is a very popular leisure destination and is at the intersection of many public footpaths.

7.4 Berkswell is recorded in the Domesday Survey of 1086 as a manor held by the Count of Meulan. The majority of the village is designated as a conservation area.

7.5 It was first designated as a conservation area in November 1968. This was a particularly early recognition of its historical and environmental qualities as the Civic Amenities Act, which introduced the concept of conservation areas, was enacted only the previous year. The conservation area was reviewed and considerably extended in 2012 – a fact missed by HS2 Ltd in all of their assessments of impacts.

7.6 The 2012 review highlighted a number of “unsympathetic development” threats to the conservation area and its rural setting – one of which was HS2.

7.7 Although a small village, Berkswell has some 23 listed buildings including Beehive Cottage, which is in the centre of the village.

7.8 Berkswell is within one mile of the proposed elevated line, and a major 20 acre construction compound sited at Park Lane borders the Conservation Area.

8. Your Petitioners and their rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.

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 vertical deviation upwards and lateral deviation should be deleted.

10. Noise

10.1 As the Property less than one mile from the proposed railway, and the prevailing wind already carries noise from the existing West Coast Mainline Railway (in a cutting) Your petitioner has concerns with regard to the matter of noise caused by the construction and operation of the high-speed railway, especially as the line is to be raised on a high viaduct in the area – at a height of over 9 metres (30ft). Your petitioner is concerned as there appears to be no mechanism in the Bill to deliver a properly noise mitigated railway.

10.2 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.

10.3 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.

10.4 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.

10.5 Your petitioner therefore requests

10.5.1 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).

10.5.2 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.

- 10.5.3 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.
- 10.5.4 Should such noise levels be breached a fine be imposed on HS2 Ltd which would contribute to a community fund. This methodology has been successfully applied at Birmingham Airport – just 5 miles away from the Property.
- 10.5.5 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.
- 10.5.6 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.
- 10.6 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.
- 10.7 Your Petitioner requests that Clause 35 and schedule 25 are deleted from the Bill.

11. Provision of a tunnel

- 11.1 Your Petitioner considers that the majority of its concerns relating to noise could be addressed by the construction of a tunnel. Your Petitioner considers that the significant detriment to the special nature of the protected land surrounding the Property could be mitigated by way of undergrounding the proposed alignment comprising Work No. 2/146 and Work No. 3/1, from Burton Green, just south of the Berkswell Parish administrative area, to a point north of Balsall Common ('the Proposed Tunnel')
- 11.2 The Proposed Tunnel would substantially mitigate the impacts of High Speed 2 on the small rural community of the Parish, as well as the green belt land that falls within the alignment of High Speed 2. Whilst your Petitioner appreciates that the Proposed Tunnel may impose an additional cost on the Promoter, it is the view of your Petitioner that any cost to the Promoter ought properly to be balanced against the cost to the community and regional and national economic interest.
- 11.3 As part of this cost equation is the opportunity to make provision now for the best opportunity to maximise community and economic benefits. Protection of the green belt, particularly in this sensitive area, would provide far greater community, ecological and landscape benefits in the long term than the additional costs of providing the Proposed Tunnel now. Furthermore, prevention of a substantial visually intrusive development in this sensitive landscape will prevent the 'slippery slope' of development and the urbanisation of the Meriden Gap, an important rural area that protects community individuality and prevents urban sprawl.
- 11.4 Your Petitioner also considers that when a change to the scheme in the Bill is justified on the merits, it is no answer for the Promoters to say that such a change should be resisted because it goes beyond what is provided for in the Bill. It is the

Promoters, not those affected, who have chosen what to put in the Bill and, if they have got that wrong, they should now accept the change. In addition, given that the Promoters have already indicated that changes to the scheme will be necessary, your Promoters consider that the Proposed Tunnel could also be put forward as a change.

12: Code of Construction Practice

- 12.1 Given the property's proximity to a major construction compound 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.
- 12.2 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. HS2 Ltd should provide resources to Berkswell Parish Council to enable any monitoring required under the Code of Construction Practice (with independent experts) to provide effective oversight and redress arrangements in the event of non-compliance with the Code of Construction Practice.
- 12.3 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 Berkswell Parish Council. 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.

13. Air Quality

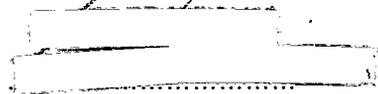
- 13.1 Your Petitioner is concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development.
- 13.2 Your Petitioner requests that before construction there should be an air quality baseline monitoring study 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 Berkswell Parish Council should be provided with powers and resources 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. **Compensation**

- 14.1 Your Petitioner submits that the compensation provisions in relation to property that is not compulsory acquired and other matters 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.
- 14.2 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.
15. 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.
16. 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.
17. 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

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PETITION OF GRAHAM LOCK

AGAINST, By counsel, &c

Graham Lock

