

IN PARLIAMENT
HOUSE OF
COMMONS
SESSION
2013 - 2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS) BILL

PETITION

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 KERI BRENNAN AND TERENCE EDWARD BRENNAN

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 and 2 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 and Schedule 2 and 3 to the Bill.
7. Clause 4 of the Bill gives the Secretary of State the power to acquire land required for the purpose of Phase One of High Speed Two (HS2). Clause 8 of the Bill provides that the power under Clause 4 may be exercised in relation to the sub-soil or under-surface of the land only.
8. Your Petitioners are Keri Brennan and Terence Edward Brennan (hereinafter referred to as 'the Petitioners'), freehold owner and occupiers of 17 Roundways, Ruislip, Middlesex, HA4 6EA ('the Property') which is located in the London Borough of Hillingdon. Your Petitioners reside at this property with their two children.

9. Introductory

- 9.1 Your Petitioners' Property is located in the vicinity of a planned tunnel, proposed to be constructed in Ruislip, which is required under the current plans to construct the railway.
- 9.2 Your Petitioners have been informed by HS2 Ltd that their property lies within HS2's subsurface safeguarding limits and that sub-soil is required for the purpose of under-surface construction works.
- 9.3 Your Petitioners are concerned about the individual and cumulative impacts on their Property by the works authorised by the Bill. Your Petitioners are also concerned that their Property, rights and interests would be injuriously and prejudicially affected by the provisions of the Bill if passed into law in their present form and accordingly objects to the Bill for the reasons, amongst others, hereinafter appearing.
- 9.4 Your Petitioners oppose the Bill in principle. Whilst you petitioners acknowledge that the principle of the Bill is established at second reading, your petitioners' views on the subject are so strong, they must be recorded in this petition.'
- 9.5 Your Petitioners allege that the Government should have carried out a Strategic Environmental Impact Assessment prior to its decision to proceed with the HS2 Scheme in January 2012. Furthermore, your Petitioners consider that the Environmental Statement fails to comply with the Environmental Impact Assessment Regulations, the HS2 proposal will cause harm to the open countryside and Green Belt land, which is arguably contrary to the National Planning Policy Framework. Insufficient time has been allowed for comprehensive consideration of the Environmental Statement consultation responses and that there has been a wholly inadequate summary of these responses which has overtly omitted vast amounts of very significant information which should have been included.

10. Limits of Deviation

- 10.1 Your Petitioners are 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.

10.2 Your Petitioners are concerned that any deviations could potentially make significant increased adverse exposure to noise or vibration to the detriment of the amenity of the Property.

10.3 Your Petitioners request that the provisions in the Hybrid Bill to allow deviation should be deleted, or amended so that only downward deviations are permitted.

11. Power to acquire land, rights in land, airspace and subsoil

11.1 Your Petitioners are concerned that the powers sought in the Bill go far beyond the scale of powers of what is reasonably required to achieve the construction and operation of the high speed railway and its associated development, particularly in relation to the acquisition of land and rights in land, air space and subsoil.

11.2 Your Petitioners believe it is unnecessary and inequitable to seek to acquire any permanent rights in relation to the Property, when limited and temporary rights are sufficient for construction of the works. Your Petitioners are very concerned that their Property, rights and interests would be injuriously and prejudicially affected by any permanent rights in relation to the Property.

11.3 Your Petitioners are particularly concerned by Clause 47 of the Bill (compulsory acquisition of land for regeneration and relocation) which is far too broad in scope and is not limited by time or distance. Your Petitioners believe that this power has no relevance to their Property and that this power should be removed from the Bill or amended to exclude the whole residential area containing their Property.

11.4 Your Petitioners specifically request that the Bill be amended so that the Nominated Undertaker may acquire no further rights in relation to the Property other than sub-soil requirements.

12. Noise and Vibration

12.1 Your Petitioners have concerns with regards to matters of noise and vibration caused by the construction and operation of a very high speed railway. Your Petitioners are concerned that there appears to be inadequate mechanisms in the Bill to deliver a properly noise and vibration mitigated railway.

12.2 Your Petitioners are particularly concerned that specific impacts of ground borne noise and vibration, including Rayleigh Waves, from a very high speed railway of over 300kmh have not been properly considered or explained to impacted communities. Ground borne noise and vibration could severely impact upon the use and enjoyment of the Property by your Petitioners.

12.3 Your Petitioners are very concerned by the absence of any specific research undertaken by HS2 Ltd, and by their reliance on older peer reviewed studies relevant to slower railways, not very high speed railways of over 300kmh. Your Petitioners are therefore concerned that the methodology used for predicting the impact of ground borne noise, vibration and Rayleigh Waves is insufficiently robust and that proposed amelioration measures may be unsatisfactory.

- 12.4 Your Petitioners request that more robust arrangements should be put in place to ensure that the Petitioners' Property is not impacted by any vibration, and in the event that some vibration is experienced in your Petitioners' Property your Petitioners submit that the Nominated Undertaker should be subject to binding mitigation requirements, including
- a) A requirement to reduce the speed of the trains travelling on its tracks to such extent that vibration would no longer be noticeable, or
 - b) To acquire your Petitioners' property at a fair market value and pay appropriate compensation.
- 12.5 Your Petitioners respectfully request further that the Bill include instructions for
- a) The Nominated Undertaker be required to undertake new research of its own into the potential noise, vibration and Rayleigh Wave impacts from very high speed trains in ground soil and rock conditions similar to that expected to be found in the Ruislip corridor.
 - b) The Nominated Undertaker to be required to commit to a lower threshold for ground borne noise as with the Northern Line Extension - meaning ground borne noise levels less than 30dB LpAsmax for urban areas.
- 12.6 Your Petitioners requests that the Nominated Undertaker be compelled to use best available techniques - rather than merely using reasonable endeavours - in the construction and operation of the high speed railway along the Ruislip corridor to ensure that minimum or no vibration can be felt in the Property and there are no other adverse effects. Your Petitioners request that the Nominated Undertaker also be compelled to use the best quality of materials for track bed, ballast and track technology to eliminate or minimise any risk of ground borne noise.
- 12.7 Your Petitioners request that there should be binding mitigation measures including effective noise mitigation and monitoring systems in place before commencement and during construction and operation of the high speed railway and associated development.
- 12.8 Your Petitioners request that 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 noise insulation for buildings and re-housing. The trigger levels at which point noise mitigation becomes necessary should be reduced.
- 12.9 Your Petitioners are also 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.
- 12.10 Your Petitioners request that Clause 35 and schedule 25 are deleted from the Bill.

13. Settlement Deeds

- 13.1 Your Petitioners are concerned about potential structural damage to the Property resulting from construction of a railway tunnel in Ruislip adjacent to the Property; from subsequent ground settlement; from structural damage caused by operation of a very high speed railway with trains operating close to the Property at speeds of 300kmh or more.
- 13.2 Your Petitioners are concerned that where Settlement Deeds are proposed to offer some assurance to property owners, the details of the Settlement Deeds offer unsatisfactory assurance over the whole length of the project. Your Petitioners are concerned that if any structural damage to the Property may be noticed in future, the Nominate Undertaker could seek to avoid liability.
- 13.3 Your Petitioners are concerned that if the settlement deed is guaranteed by a limited company, currently HS2 Ltd. this will devalue the deed and reduce the value of the property and their ability to sell it in the future. They ask that the government undertake to honour the deeds and that they held in the governments name not HS2 Ltd.
- 13.4 Your Petitioners therefore request that the Bill be amended to instruct the Nominated Undertaker to undertake structural surveys of the Property at several intervals - for example:
- a) One year before the passing of tunnel-boring equipment used for the construction of the railway tunnel through Ruislip
 - b) One year after the completion of the railway tunnel through Ruislip
 - c) One year before first operation of the HS2 railway (which is expected to begin operating in 2026).
 - d) One year after first operation of the HS2 railway
 - e) Seven years after initial operation of the HS2 railway (expected to be 2033 and consistent with the expectation of additional train noise and vibration from completion of Phase 2 of the railway).
- 13.5 Your Petitioners also request that the Bill includes amendments to the effect that the Nominated Undertaker should be fully liable for remedying any structural damage to the Property within 6 months of each inspection - including any minor damage, for example cracks to interior or exterior plasterwork.

14. Other tunnelling impacts

- 14.1 Your Petitioners are concerned that insufficient information has been provided in relation to potential water discharge caused by the construction of the railway tunnel and associated development in Ruislip.
- 14.2 Your Petitioners request that the Bill include provisions to ensure that the Nominated Undertaker takes all practicable steps to minimise the possibility of water discharge and, in the event that it does occur, to rectify any damage caused to your Petitioner's Property and garden including compensation for any temporary loss of amenity which may be suffered as a consequence of water discharge.

15. Compensation

- 15.1 Your Petitioners submit that compensation provisions in relation to their Property are not sufficient to compensate adequately for the loss of value that has already occurred and for loss and damage likely to be incurred in future as a result of construction and operation of the high speed railway and associated development.
- 15.2 Your Petitioners respectfully submit that the provisions of the Bill at present do not sufficiently mitigate for interference with your Petitioners' property rights and home, which should be guarded by Article 1 of Protocol 1 to the European Convention of Human Rights (the right to peaceful enjoyment of possessions).
- 15.3 Your Petitioners are deeply concerned in particular by provisions of the Bill to amend existing legislation which does provide one suitable compensatory mechanism. Clause 8 of the Bill would enable the Secretary of State to acquire compulsorily the subsoil only, rather than having to acquire the whole of the land. Subsection (2) to Clause 8 would disapply existing provisions of the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981 which presently enable a landowner, in certain cases where it is proposed to purchase only part of property, to require the whole of the property to be acquired on the ground that taking that part of the land would result in material detriment to the remainder of the land.
- 15.4 Your Petitioners respectfully request that Clause 8 of the Bill be deleted, or amended to the effect that where only the subsoil of land is acquired, the Secretary of State should be required to acquire a greater interest in the property if agreeable with the Property owner.
- 15.5 Your Petitioners are also very concerned that their Property is excluded from other compensation schemes that are available to other property owners affected by the Bill, some of which properties may be much further in distance away from impacts brought on by the construction and operation of the railway. This is unfair and appears discriminatory.
- 15.6 Your Petitioners submit for your attention the past precedent of compensation arrangements made in respect of the Channel Tunnel Rail Link (now known as High Speed One). This included compensation for properties that were not required for construction nor which were even on the route of that railway, but which had been adversely affected by loss of value from a route selection process. Your Petitioner believes that this precedent is similar to the route selection process for the proposed HS2 railway wherein original surface route proposals for Ruislip had and still do adversely affect the value of the Property.
- 15.7 Your Petitioners request that the Bill should be amended to
- a) Ensure your Petitioners (and other persons subject to safeguarding of sub-soil who are injuriously affected and adversely affected by loss of value) should be entitled to claim compensation equivalent to any loss of value of the whole Property.
 - b) Include the Property (and other properties subject to safeguarding of sub-soil) in a Voluntary Purchase scheme identical to that offered to other affected parts of the route of the HS2 railway.
 - c) Include the Petitioners' Property (and other properties subject to safeguarding of sub-soil) in any proposals for compensatory cash payments to home owners within

the vicinity of the proposed high speed railway line and that any payment should be calculated so that all diminution in value is compensated.

- 15.8 Your Petitioners are further concerned about the lack of provision in the Bill for the replacement of social housing lost to construction of HS2 and your Petitioner submits that the Bill should be amended to require an equivalent number of social housing units be constructed in the area by the Nominated Undertaker to replace any lost to construction.

16. Code of Construction Practice

- 16.1 Your Petitioners are very concerned that during construction of the HS2 railway the hours of construction activity could frequently amount to 24 hours and weekend activity. Assessments submitted in the Bill's Environmental Statement appear to have been made on the assumption that a Code of Construction Practice will be effective in controlling construction activity and undesirable impacts.

- 16.2 Your Petitioners are very concerned that the proposed Code of Construction Practice has no statutory basis - it is not in the Bill and has no legal status. 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.

- 16.3 Your Petitioners request that the Code of Construction Practice should be incorporated into the Bill and also that Parliament, 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 with effective oversight and redress arrangements in the event of non-compliance with the Code of Construction Practice.

- 16.4 The standards set out in the Bill's environmental statement and the Code of Construction Practice is of "reasonableness" and "reasonable endeavours". Your Petitioners submit that this should be replaced by a higher standard of "best practical means" which should be on the face of the Bill. The measures should be agreed with the relevant local authority. 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.

17. Air Quality

- 17.1 Your Petitioners are concerned about the potential adverse impacts on air quality from extensive vehicle movements in the Ruislip area as a result of the construction of the high speed railway line and associated development.

- 17.2 Your Petitioners request that the Bill be amended so that before construction there should be an air quality baseline monitoring study in the Ruislip Manor Ward benchmarked against the Air Quality Standards Regulations 2010 and a copy of this report should be made public. Your Petitioners submit that the Bill should be amended so 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 the HS2 railway.

17.3 Your Petitioners request 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 Petitioners submit 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.

18. Highways

18.1 Your Petitioners are concerned that the construction of the high speed railway and associated development at West End Road, Ruislip (the A4180 highway) and on the wider area will impact significantly upon the quiet enjoyment of the Property and the neighbourhood by way of noise, disturbance, visual intrusion and traffic increases.

18.2 Your Petitioners are concerned about the use of several local residential roads in Ruislip including West End Road (the A4180 highway), Victoria Road and Field End Road by large vehicles delivering equipment and supplies, and removal of spoil during the construction works as well as use of highways by other vehicles. The use and routing of large vehicles within the vicinity of the Property is also a matter of concern to your Petitioners.

18.3 Your Petitioners are very concerned about the risk to public safety posed by the increased number of large, heavy lorries and articulated vehicles, especially in light of the fact that West End Road, Victoria Road and Field End Road are access routes to several schools including Ruislip High School, Queensmead High School, Sacred Heart Primary School, Field End Primary School, Lady Bankes Primary School and Ruislip Gardens Primary School.

18.4 Your Petitioners request that the operational hours for the movement of construction traffic along West End Road (the A4180 highway), Victoria Road and Field End Road are strictly limited to 08:30 to 17:00 Monday to Friday, and there are limits on the number of vehicle movements during peak time of travel, limits on the size of vehicles, and other miscellaneous related matters. With extra limits and consideration around school hours and on routes used for schools.

18.5 Your Petitioners request that large vehicles as well as other construction traffic must be strictly controlled, having regard to the particular sensitivities of the residential areas along West End Road (the A4180 highway), Victoria Road and Field End Road including the street containing your Petitioners' Property at Roundways, Ruislip.

18.6 Your Petitioners request that the Nominated Undertaker should be subject to binding mitigation measures in relation to the control of all construction traffic, assessment of suitability of roads for construction traffic, routing of lorries and other vehicles in accordance with a list of routes to be agreed with the Nominated Undertaker and your Petitioners.

18.7 Your Petitioners request that binding mitigation measures should include traffic management plans to be agreed between the Nominated Undertaker, the relevant local authority and the relevant highway authority to be monitored and enforced by environmental health officers

18.8 Your Petitioners request further that risk assessments should be completed by the Nominated Undertaker, by relevant statutory undertakers and by the Fire, Ambulance

and Police emergency services in relation to the access and transport issues raised by construction activity in HS2 Community Forum Area covering Ruislip and Ickenham. Your Petitioners also request that the results the risk assessments should be available to the public.

- 18.9 Your Petitioners are also concerned about the wear and tear, and degradation to the local highways as a result of heavy construction traffic.
- 18.10 Your Petitioners request that appropriate funding should be provided by the Nominated Undertaker to the local highway authority for the maintenance, repair and re-instatement of highways required as a result of use by construction traffic.

19. Nominated Undertaker

- 19.1 Your Petitioners have concerns in relation to the appointment of a Nominated Undertaker and the associated risk of them failing to fulfil their obligations failing, and the fettering of the Secretary of State's discretion by agreement with the Nominated Undertaker.
- 19.2 Your Petitioners request that there should be a provision inserted into Clause 43 enabling enforcement against the Secretary of State in the event of the Nominated Undertaker failing to fulfil their obligations.
- 19.3 The Bill should also be amended so that undertakings given by the Secretary of State during the passage of the Bill are enforceable by the beneficiaries of the undertaking in the courts against the Secretary of State or the Nominated Undertaker.

20. Wider area concerns

- 20.1 Your Petitioners respectfully note that the proposed route for the HS2 railway in Ruislip emerges from a tunnel at Ickenham High Road, West Ruislip and is then proposed to go overland through Harefield and the Colne Valley where, on a Viaduct, it would cross the Grand Union Canal, Mid Colne Valley Site of Special Scientific Interest, the River Colne and a number of lakes in the valley. Your Petitioners respectfully submit that the proposal to carry the HS2 railway overground through the area between Ruislip and the M25 will give rise to a number of serious adverse environmental impacts.
- 20.2 Your Petitioners and their family enjoy the unique community based facilities of the Hillingdon Outdoor Activity Centre (HOAC) both as a family and through the childrens' school. HOAC is located in Harefield. HOAC is a unique facility and will inevitably close if the Bill is enacted without amendment.
- 20.3 Your Petitioners request that the Bill be amended to extend further westwards the Ruislip bored tunnel in order to replace the proposed overland route across Ickenham and the Colne Valley and in order to avoid a number of serious adverse environmental impacts including the loss of the HOAC facility.
- 20.4 Your Petitioners are greatly concerned that the Central Line London Underground route may be closed for some considerable time due to works on or near the line around Greenford. This route is used for work and poses another financial and stress issue for the family if it does not operate for a long period of time, so it is requested that this issue is given consideration and minimised.

21. Impact of other Petitions

- 21.1 Your Petitioners respectfully submit that the main purpose of the HS2 railway tunnel through the residential area of Ruislip is to mitigate the main adverse impacts of the railway and to protect the community. Your Petitioners are aware of early ideas from other groups to add surface railway infrastructure in the Ruislip Manor / Ruislip Gardens area close to the Petitioners' Property– for example, as an alternative High Speed 1 rail link; or as a temporary railhead for waste disposal.
- 21.2 Your Petitioners submit that any other Petition received containing any proposals for additional surface railway infrastructure in the vicinity of the Petitioners' Property in Ruislip would jeopardise the purpose of the railway tunnel that has been specified in the Bill.
- 21.3 Your Petitioners respectfully request that any other Petition received that contains proposals for surface railway infrastructure in Ruislip be rejected as being contrary to the mitigation provisions that have been out in the Bill.

Further matters

- 22. In light of the above, your Petitioners 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.
- 23. For the foregoing and connected reasons your Petitioners respectfully submit that, unless clauses of the Bill are removed or amended, then the Bill should not be allowed to pass into law.
- 24. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners 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

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PETITION OF Mrs Keri Brennan and Mr Terence Edward Brennan

AGAINST, By counsel, &c

Mrs Keri Brennan and Mr Terence Edward Brennan

