

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Against – on Merits – 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:

- (1) **Elizabeth Blanche Birch**
- (2) **Anthony Boschetti Ellis**
- (3) **Blanche Alway Ellis**

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.

***Clauses of the Bill***

- 3 Clauses 1 to 3 of the Bill, together with Schedules 1 to 4, make provision for the construction and maintenance of the proposed works, including the ‘Scheduled Works’ set out in Schedule 1: Provision is included to confer powers for various works and operations, including railway, highway and other building and engineering works and operations. Powers are also included to enable entry onto and interference with land and buildings for investigatory, protective and other purposes, together with powers to enable occupiers to be required to undertake works to trees, powers to use watercourses, public sewers and drains for drainage purposes and powers temporarily to interfere with and use waterways.
- 4 Clauses 4 to 18 of the Bill, together with Schedules 5 to 15, make provision for the compulsory acquisition and the temporary use of land and for the extinction or exclusion of certain rights in land. Provision is also included for the application or variation of compensation provisions.
- 5 Clauses 19 to 36 of the Bill, together with Schedules 16 to 26, make provision for the grant of planning permission and other consents and for the disapplication or

modification of various controls, including those relating to heritage, water, building control, party walls, street works, lorries, noise and local legislation.

- 6 Clauses 37 to 42 of the Bill, together with Schedules 27 and 28, make provision for railway matters. Provision is included for the application (with modifications) and disapplication in parts of the existing railways regulatory regime, enabling agreements to be required to be entered into between the nominated undertaker and controllers of railway assets and other railway facilities and for the transfer of statutory powers in relation to railway assets.
- 7 Clauses 43 to 65 of the Bill, together with Schedules 29 to 31, contain general and miscellaneous provisions. These include provision for the designation of nominated undertakers, the making of transfer schemes, provision for statutory undertakers, provision for the compulsory acquisition of land for regeneration and for relocation purposes, and powers for the reinstatement of land. Provision is also included to apply powers of the Bill to further high speed works, to confer a power of entry for further high speed works, as to the application of the Environmental Impact Assessment Regulations and as respects the application of arbitration.
- 8 The works proposed to be authorised by the Bill are specified in clauses 1 and 2 of and Schedules 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 Schedules 2 and 3 to the Bill.

### ***Your Petitioners***

- 9 Your Petitioners are a family of mother and two adult children who live at No. 32 Park Village East, London, NW1 7PZ. Elizabeth Birch is aged 61 and purchased the house in 2006, following separation and later divorce from her husband of 22 years. The freehold is part of the Crown Estate and the lease for the house was extended by negotiation with the Crown in 2007 and is now approximately 145 years. There presently lives with her the two children from that marriage, Anthony Ellis (aged 28) and Blanche Ellis (aged 26). All three hereby petition. Park Village East ("PVE") and Park Village West ("PVW"), together "the Park Village", are quiet residential streets in London NW1. Park Village East, as more fully described below, is immediately adjacent to the section of the existing railway line leading into Euston, and immediately adjacent to the proposed construction of the section of high speed line which is designated by the Promoter as "Community Forum Area (CFA) 1 – Euston – Station and Approach". Your Petitioners are directly and specially affected by the provisions of the Bill for the reasons set out below.
- 10 The Park Village (Park Villages East and West) comprises a highly significant development, architecturally and historically, designed by John Nash as part of his overall scheme for the Regent's Park. These houses are all Grade II\* listed. No. 32 was probably built in about 1825. The Petition of the Park Village & Environs Residents Association ("PVRA") and the Park Village East Heritage Group ("PVEHG") describes in more detail the historical importance of this conservation area. The whole of this section of the street (from No. 1 through to No. 36) also forms part of the

Regent's Park Conservation Area and there is a significant "green corridor" running from the allotments to the south of this part of PVE through to the Regents Park Zoo to the north of PVE created by the extensive gardens behind the houses and within Park Village West which runs directly behind and has similarly generous gardens. As a result there are many species of birds and other creatures living within the gardens and the perceptible noise within the houses and gardens is mainly that of trees rustling and birdsong. There is presently no substantial or overriding noise from either traffic or trains, in the case of the latter because the cutting in front of the house is deep and there is substantial mature planting between the retaining wall and the roadside. The house is, therefore, extremely unusual for its position within inner London.

- 11 Your first Petitioner, Elizabeth Birch, bought this house because it afforded a very quiet, elegant and beautiful residence with a remarkably large and peaceful garden for its location and with space for the children to return to when they had finished their university studies. She is a member of the Bar, not now practicing as an advocate but sitting as arbitrator and mediator. She frequently works from home and has Chambers in Gray's Inn. The location affords her a comfortably lifestyle when working at home and easy access to her Chambers. Given her age, the expectation is that she will probably reduce her level of work gradually as she moves into retirement.
- 12 Your second Petitioner, Anthony Ellis, returned home from Edinburgh University in the summer of 2012 in the Autumn of writing his thesis for his PhD in Classics. A brief teaching appointment at the University of Edinburgh aside, he has been living at 32 PVE since that date and expects to continue to do so for the indefinite future, having just been awarded a research fellowship at the University of London. He frequently writes and conducts research at the house.
- 13 Your third Petitioner, Blanche Ellis, completed her studies at the University of East Anglia in 2011 and has been living with Elizabeth since then and will do for the foreseeable future. She is an artist and a musician who performs and exhibits regularly in local venues and galleries including Camden Market. She lives and does her work from home.
- 14 All of the Petitioners are severe asthmatics affected by dust and pollution and Elizabeth has a Brochiactasis making one of her lungs particularly susceptible to infection. The size and space of the property in a quiet residential road has enabled the family to live healthily in central London, away from major pollution. The details of the proposed works happening right outside the house are described below. There will be substantial dust and pollution, quite apart from the noise and vibration and there is no doubt that the health of all of the family will be affected by the proposed engineering works in PVE. It is likely that Anthony and Blanche will be forced to move away from the house, if their lives do not take them away in any event, in order to avoid the pollution in PVE caused by these works. At that point, Elizabeth would naturally wish to downsize but (as will be seen below) will probably be unable to do so until she is well into her 70s because of the blight caused by this project. That will leave her living in a house that is too large and expensive to heat because of its lack of insulation and surrounded by dust, pollution, noise and vibration but unable to sell the house and move on to a more suitably sized property.

- 15 Your Petitioners and their rights, interests and property of its members are injuriously affected by the Bill, to which your Petitioners object for the reasons, amongst others, hereinafter appearing.
- 16 Your Petitioners support and pray in aid the Petition of the Park Villages and Environs Residents' Association ("PVRA") and the Park Village East Heritage Group ("PVEHG") in respect of both of which they are members. Your second Petitioner is Chairman of PVRA and Honourable Secretary of PVEHG. Your first Petitioner is Co-Chairman of PVEHG. Your petitioners have reviewed the petition being lodged by both those groups and hereby expressly adopt it and hereby incorporate it into this Petition as if it were fully set out in this document.
- 17 Your Petitioners are however mindful that the Select Committee of your Honourable House will not wish to hear mere repetition of arguments already made before it and therefore at a hearing we do not expect to repeat arguments made in the Petition above unless this becomes necessary for some procedural reason in order to have them heard. We do however rely upon that Petition and will briefly supplement it below. We also make some further particular submissions not, so far as we are aware, made elsewhere.

#### **How the Petitioners are directly and specially affected**

- 18 The work that will be happening right outside your Petitioners' front door, as described in the ES, includes:
- Digging up of the road to create a 35m hole for HS2 track to run below the road immediately outside the houses in PVE, not in a tunnel but with a "dive under" which is only a semi-enclosed space closer to the surface than a tunnel. The new wall of the cantilevered structure will be within a few feet of the house. It is noticeable that the Bill removes a requirement for listed building consent in relation to the pillars, walls and railings of the PVE houses, many of which are original to the houses. This infers that they may be damaged or demolished in the course of this work and emphasises how close this work is taking place to the front of our house. This is a large and complex piece of engineering work which is to be done almost on top of these houses. It is proposed that the road will be closed to vehicle traffic during this work and your Petitioners will have no access to the driveway, where they park their cars, for a very substantial period of time (measured in years). Gigantic rigs, taller than the houses, will be placed in the road during the digging period.
  - Demolition of approx. 12m high Park Village East (PVE) retaining wall the upper part of which presently forms the wall on the opposite side of the road to the houses followed by its reconstruction as a retaining wall 35m high above HS2 track level.
  - The driving of anchors beneath the houses in PVE (HS2 have not been prepared to give the exact depths or locations) to secure the works in both rebuilding the retaining wall and securing the dive-under. Each anchor is in essence a long rope made of composite material with one end fixed to a steel plate and set into the cantilevered structure of the dive-under with the other end

being an anchor set deep into the soil under your Petitioner's house (and other houses within PVE).

- Demolition and reconstruction of Mornington Street Bridge (within a few yards of the house on the north side).
- Demolition and reconstruction of Granby Terrace Bridge (a short distance to the south of the house). Note: your Petitioners' house is sandwiched between the two bridges both of which will be demolished and rebuilt. Mornington Street bridge is just a few yards to the north of the house and Granby Terrace Bridge is just a little further to the south.
- Phased demolition and reconstruction of Hampstead Road Bridge six metres higher and 220 metres long (twice the existing length). This is just on the opposite side of the cutting to your Petitioner's house.
- Works on the classic railway tracks, signalling and other systems
- Installation of new tracks, gantries, signals etc
- Utility works in Park Village East including a construction compound in the cutting just below and slightly to the south of the house.
- Demolition of the central retaining wall at the Parkway portal (at the top of PVE).
- The building of a head house at the north end of PVE.

19 In summary, the work in this part of the cutting, and directly outside the front door is expected to go on for most of the estimated 11 years for the project with access to the road being denied for a substantial part of that period (see more below). Residents in PVE are fortunate in having driveways and we have two cars which we park in that driveway behind electronic gates (which is important in reducing the insurance premium for the cars). As part of our normal family life, we make extensive use of vehicle access. It is important to us not only for personal travel (which routinely involves e.g. heavy shopping and transporting boxes of papers to and from work) but also for visitors, for deliveries, for tradesmen, builders (naturally, as an old house, regular maintenance is required) and gardeners etc.

20 No proposals are made in relation to the personal requirements of the residents in this respect or in relation to emergency vehicles, arrangements for removal of rubbish, taxis and couriers who would need to deliver papers to your Petitioners from time to time or taxis to assist with luggage when your petitioners are travelling abroad and so on during this period of limited access. It is hard to see how your Petitioners can sensibly live in the house during the period when the road is being dug up and the drive-under constructed.

21 The ES Vol 5 Draft Code of Construction Practice CT-003-000 sections 5.2.6 to 5.2.10 exempt much of the work from normal working hour restrictions and indicates that it will take place 24 hours a day, seven days a week. Most of the work will be noisy, need heavy machinery that is in itself noisy, and generate heavy lorry traffic for ten or more years. This imports sleepless nights for many years, beyond what can

reasonably be expected to be tolerated. The present facility of working at home would be a misery and your Petitioners would be driven from their home to seek some quieter place to work.

- 22 The ES acknowledges numerous that there will be substantial adverse effects on PVE. See, for example:

*“5.4.35 ... Construction at Park Village East will require the temporary phased closure of vehicular access to properties between numbers 16 and 36 Park Village East. Emergency access will be maintained. ... During the closure periods, residents and the Crown Estate, which is the freeholder, will only be able to access the affected properties on foot. The disruption to Park Village East will extend over a four year period but vehicular access to individual properties will only be restricted for a period of up to 12 months during the principal works to the retaining wall structures.*

*5.4.36 The residents of Park Village East are predicted to experience in-combination effects during the construction period. The in-combination effects are significant construction noise and visual effects. This is considered to affect over 50 residential properties in this area. The combination of these effects, which will coincide for approximately two years, will result in a major adverse effect on the amenity of residents, which is considered significant.*

(Note: The likely duration of two years here stated of this “major adverse effect” is contradicted by much longer estimates for the works which are given elsewhere in the ES – see further below).

*5.4.40 From a community-wide perspective, residents at Park Village East are expected to experience multiple significant effects, with construction activity restricting access for some properties and combined effects resulting in a change in amenity for a wider group of residents.*

*6.4.4 The Grade II\* villas on Park Village East, which are located within the Regent's Park (Camden) Conservation Area (EUS003), are an asset of high value which lie within the land required to construct the Proposed Scheme. The character and context of the asset and its setting in the wider conservation area will be impacted by construction activities associated with the demolition of the Park Village East railway retaining wall and by the associated underpinning works and retaining wall replacement works. The majority of the construction works will be undertaken over a seven year period between 2016 and 2022.*

*9.4.73 Works for the Proposed Scheme will be located less than 10m from the dwellings along Park Village East and there will be direct and close views of construction works. The demolition of the carriage shed, removal of tree and shrub planting and the replacement of Granby Terrace Bridge will open up views of*

*large construction plant in the foreground and middle ground of the view. Views of the piling works associated with the construction of the retaining wall along Park Village East and the demolition and construction of Mornington Street Bridge will be close and direct. The presence of hoardings and movement of plant and equipment will be prominent in the foreground of the view. Overall, the construction activities will be highly visible, large scale and prominent in the foreground of the view. Therefore, the magnitude of change is considered to be high.*

Note that the digging of the 35 metre hole and creation of the cantilevered dive-under will in fact come within a much shorter distance than 10m. It will be, perhaps, 9 ft from our gate and 12 ft from our front steps. The equipment will probably take up all of the road, leaving only the narrow footpath between our gates and the working machines/rigs.

*9.4.74 The high magnitude of change, assessed alongside the high sensitivity of the receptor will result in major adverse effect"*

23 By contrast, at present PVE is a pleasant and peaceful place to live as was acknowledged in the draft ES Para 11.4.2 which says:

*"The baseline sound environment in the vicinity of Park Village East is relatively low, considering its urban setting. Vehicle traffic ... becomes dominant at the north end of Park Village East [on Parkway]. To the south, the area is relatively quiet particularly at night. The area is predominantly residential and traffic flow along Park Village East is light."*

24 Your Petitioners invite the Select Committee to come and view the property and experience the unusually quiet nature of the house and gardens as existing.

25 The "major adverse effect" identified at 5.4.36 set out above is stated to last for approximately two years, but elsewhere the periods of work are stated to be very much longer, from 4 years to 10 years. (all references below are taken from ES Vol. 2 CFA-1):

- *Park Village East will be closed 'in sections' for 2016-20 (p. 47 Table 4).*
- *Surrounding streets closed for utilities works 2015 Q3-2017 Q3 and 2018 Q4-2019 Q3 (p. 55 Figure 4).*
- *Works to Mornington Street Bridge during 2015 Q3-2020 Q1 (p. 58 Figure 4)*
- *Works to Park Village East retaining walls continuously from 2017 Q3-2019 Q4 with work to the autotransformer in Park Village East in 2024 Q2-Q3 (p. 59 Figure 4)*
- *The Park Village East construction compound will be in use from 2016-2026 (2.4.51) – therefore about 10 years [Note: via a ramp down to the track – see 2.4.53 – so access to it will be by road]. It will operate 24 hours a day and 7 days a week.*
- *Paragraph 6.4.4 indicates that work affecting PVE will last 7 years.*

In conversation and at meetings, HS2 has also given many and varying times during which the road is likely to be closed, indicating periods of up to 4 years in total for 12 months at a time. The insertion of the mention of emergency access at Paragraph 5.4.35 clearly arises because your Petitioners and other residents have raised this issue during the period of consultation. But no explanation is given of how it will be maintained in circumstances where the road will be closed to vehicle traffic, most of the road will be dug up and heavy machinery will be sitting on the remainder of the road. The Promoter has given no credible indication of having a plan which would safeguard your Petitioners in the event of a fire or a need for an emergency ambulance.

- 26 Further, it is estimated by HS2 that once the trains are in operation there will be 40% more road traffic along PVE. It is unknown what effect there will be from the operation of the trains within a few feet of the front door in terms of noise and vibration but it is highly unlikely that there will be none. It is clear that PVE will never again return to the quiet, idyllic and pleasant residential ambiance that presently exists.
- 27 As a result, the houses in PVE are already blighted and as set out below it is not now possible for them to be sold. For the reasons set out above, it is unlikely that these houses will ever regain their full value. Nevertheless, HS2 do not presently propose to pay the residents any compensation for the loss of the value of their asset.

### **Noise and Vibration**

- 28 It is unrealistic to think that life goes on as normal while a 15m high 3 metre thick retaining wall is being demolished outside your house and a 35 metre high one being built in its place or while a 35m deep hole is dug where the road outside the house usually is and a massive engineering cantilevered structure created. Further, once the retaining wall and the mature planting in front has been demolished, PVE will inevitably experience even greater noise and other effects from work coinciding within the cutting. The basic human right to the peaceful enjoyment of property is being removed by ten years of disruptive construction without proper mitigation or compensation.
- 26 It is estimated by the Promoter that noise from these significant engineering works will be up to 89dB during core working hours and up to 74dB on occasions when work is required to take place overnight (see table at Volume 5 Appendix SV-003-001 page 24). To put this into context, 85dB is the point at which UK employers are legally required to provide hearing protection equipment. Further, W.H.O. guidelines state that night-time noise should not exceed 40dB and where it exceeds 55dB "the situation is considered increasingly dangerous to public health" (World Health Organization Europe, Night Noise Guidelines for Europe).
- 27 At a meeting held with representatives of the Promoter at 32 Park Village East on 8th May 2014 and attended by two of your present Petitioners Elizabeth Birch and Anthony Ellis together with certain other residents of this street, HS2's representative Steve Mitchell had with him graphs purporting to indicate that the likely position would be either less severe or for a shorter periods of time. He confirmed that these were the basis of the above-quoted figures in the ES but (i) he was not prepared to provide copies of those graphs, (ii) the underlying supporting calculations were not disclosed.

Your Petitioners require the Promoter forthwith to disclose these graphs and other material setting out or underlying its noise and vibration calculations. Absent production it is impossible to proceed on any other basis than on the published figures in the ES.

- 28 It is relevant in this context that your Petitioners do not have the option to put in double or triple glazing because it is Grade II\* Listed (and in any event this would not address the loss of amenity in the present use of substantial and tranquil gardens, terraces and balconies).
- 29 Your Petitioners do not accept the Promoter's methodology in assessing current and predictive noise levels. In particular, in relation to the Promoter's predictive figures, the experience of some of my neighbours when work was done on the track in the cutting (prior to your Petitioner's moving into this house) indicates that works within the cutting is amplified towards the houses in PVE by virtue of the echoing effect of the retaining wall on the opposite (ie East) side of the cutting.
- 30 One relevant baseline reading taken on the rear balcony of one of my neighbours and relied upon by the Promoter is reported in a misleading way, as if to indicate that the noise recorded is that of traffic whereas the comment provided by the firm engaged to do the monitoring (not recorded in the ES) was that "the primary noise source was trees rustling in the wind with some aircraft noise and distant road traffic noise".
- 31 Further, it is understood by your Petitioners that the Promoter relies principally on readings taken on the roadside (in some cases beside a traffic calming bump) for the purposes of comparing their predictive noise levels during and after construction. Your petitioners do not live on the roadside and such readings are not indicative of the noise level experienced within the house which is mainly that of a rural context.
- 32 It is unknown how much noise and vibration there will be after the high speed trains are put into operation, bearing in mind that they will not be in a tunnel when they pass PVE.
- 33 Vibration is a related issue. It relates to both (a) the construction work, and (b) subsequent operation of the high speed trains. Given the delicate form of construction of these houses (see the PVEHG and PVRA Joint Petition at paragraph 55), and the proposed placing of ground anchors directly beneath them, there is a strong possibility that this house will be affected by vibration, making it unpleasant and undesirable to live in.
- 34 HS2 have estimated that the level of traffic in this presently tranquil residential road will increase by 40% after the trains and the new station at Euston are in operation. Since the value of the houses is largely based on the unusual peacefulness of the properties and their substantial gardens, that value is highly unlikely to be restored once the project is completed (as is thought likely to be the case in other areas).

### **Blight**

- 35 Your Petitioners house is semi-detached with No. 34 PVE (some cottages/villas in this road are free standing and some are semi-detached). My next door neighbours at No.

34 placed their house on the market in July 2013 and the property is unable to be sold because of the prospect of the HS2 project. There is no doubt that the same position applies to your Petitioners house. A blight notice was served on the Promoter, who rejected the notice with the consequence that your Petitioners are denied proper, or any, compensation for a real loss suffered now.

36 It is respectfully submitted that the effect on the quality of life of your Petitioners has been grossly disregarded, and their human rights to respect for their private lives and homes and to the peaceful enjoyment of their possessions (see ECHR Article 8 and Protocol 1) are being unlawfully ignored. Knowing that there is no provision for compensation to be payable, the planners have made no adequate effort to address these matters. The environmental effects are massive and disproportionate. The Bill fails to provide acceptable mitigation or compensation.

#### **Effects on the house**

37 The Promoter has confirmed that it has not carried out any investigations in PVE as to the condition of the soil or the likely effect of undermining these houses (at a meeting with the Regent's Park Conservation Area Advisory Committee in May 2013 and again at a meeting with your Petitioners in January 2014). They have indicated that such a survey will not be done until the contractors have been engaged and possibly as little as 6 months before the work commences. This is clearly much too late to make a proper and informed decision as to the likely effects of an important part of the present design, being the station approach into Euston.

38 Given the architectural and historic importance of PVE and in particular the Petitioners' house, this is unacceptable, and proper mitigating measures should be required to avoid damage to them.

#### **Additional infrastructure**

39 As mentioned above, the Promoters propose to construct a multi-storey headhouse at the high speed tunnel portal. Your Petitioners support the petition of PVEHG and PVRA that the proposed structure unsightly and entirely out of keeping with the Georgian surroundings of the Conservation Area. The headhouse includes an entrance building significantly above street level (up to about 8m) and will be located within 10m of the listed buildings. Your Petitioners consider that the Promoters should be required to redesign of a lower, less obtrusive structure in keeping with the surrounding architecture and it should be relocated as far from the listed buildings as is technically feasible. If the headhouse is necessary, it should be designed as a low lying Georgian building.

40 Your Petitioners are aware that as a result of ongoing reviews of the HS2 proposal, in particular those for which Sir David Higgins is responsible, it is being suggested that additional major development of the Euston area should be undertaken – at one extreme it has been said that Euston should become “a second Canary Wharf”. These proposals were not assessed as part of the original ES. The design of Euston will inevitably rebound on the engineering solution within the Euston Throat (ie the PVE stretch).

41 At the time of preparation of this Petition, we are not able to address those proposals, because no proposal has yet been put forward by HS2. Indeed we have been advised that the Secretary of State is considering "changes to the proposals at Euston and it is therefore premature to start consideration of the petitions at the London end".

42 This leaves your Petitioners in the unsatisfactory position of having to comply with the time for putting in our Petitions before we know what the proposals are which affect our stretch of the cutting. We reserve all our rights in this respect.

### **The relief sought by Your Petitioners**

43 Because your Petitioners do not wish to add to the burdens your Committee already faces, your Petitioners limit themselves here to saying that, both as individuals and as members of the Park Village East Heritage Group and the Park Village & Environs Residents Association, they fully support the Joint Petition as regards the High-Speed Rail (London-West Midlands Bill) which has been submitted in the name of those groups to your Honourable house.

44 For the reasons given herein, your Petitioners respectfully ask that the proposed scheme be varied in the following respects and that appropriate amendments to the Bill be made accordingly or, alternatively, that the Promoter be put to proof in relation to the existing proposals:

- The proposed "single deck" scheme, resulting in unnecessary reconstruction of an excessively large area in and around Euston, should be rejected and the Promoter be required to consider and promote an Additional Provision for a "double deck down" or other more compact scheme.
- The design of the approach to Euston should be reviewed, reconsidered and redesigned by the Promoter in order that it remain within the existing cutting, and the Promoter should be required to take, and to demonstrate that it has taken, all proper measures to avoid and prevent damage to the existing buildings in PVE. For example, the approach to Euston could be confined to the existing 'classic tracks', or could be tunnelled in its entirety up to the station or relocated to make use of presently unused land to the east of the existing track.
- Removal of spoil, and principal site access in the Camden/Euston section of line, should be required to be by rail or other means rather than road.
- There should be no ancillary property development of the Euston area purportedly authorised by and riding on the back of the Bill which is not directly related to the railway (except merely as a means for funding it).

- The main London terminus for the high speed section of rail should be constructed at Old Oak Common, with a low speed onward link from there to Euston using the existing section of line and the existing station buildings, alternatively in a fully tunnelled link.
- Proper compensation should be payable to your Petitioners and all those in PVE affected by the proposed project and whose property is and will be blighted by (a) the construction of HS2, and (b) disturbance by its operation, in each case commensurate with the actual damage to the rights of quiet enjoyment of their property, and without imposition of irrelevant conditions such as means testing or hardship.
- Specifically, your Petitioners, whose house is currently only designated 'safeguarded as to subsoil', should be deemed eligible for the express purchase schemes and all other voluntary schemes currently limited to 'fully safeguarded' properties, or should be able to benefit from equivalent compensatory measures. This is particularly so, bearing in mind that PVE is, it is respectfully suggested, one of the, if not the, most adversely affected street in the country.
- The provisions for temporary rehousing are also inadequate for the proper protection of your Petitioners. The maximum levels of dBs for both day and nighttime working are set too high and there is a requirement for continuity of noise which will likely leave your Petitioners without proper protection. The Promoters should be required to identify periods of working in advance where the dB levels are above acceptability and to rehouse for the period of that work in housing of the same or better quality and with a similarly convenient location.

45 Your petitioners rely on all the arguments put forward by PVEHG and PVRA in support of this petition for relief.

46 Overall, this is an unprecedented period of closure and disruption for homeowners: it is very hard to see how your Petitioners will be able to live in their house during substantial periods of time – for example, the years when the road is closed, and the years of working taking place outside core working hours.

### **Human Rights**

47 Your Petitioners respectfully submit that the effect on the quality of life of those to be affected by the proposed works, including us, has been grossly disregarded and is in breach of our human rights.

48 The European Convention on Human Rights provides as follows:

**"ARTICLE 8**

**Right to respect for private and family life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

#### **PROTOCOL - ARTICLE 1**

##### **Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

- 49 We respectfully submit that the first sentence of Art.8 and the first sentence of the Protocol is applicable in this case, and the qualifications in the second paragraphs do not justify the damage caused by the works, in particular because it is not fully ameliorated by any adequate proposals for compensation.
- 50 In this regard, your Petitioners are taxpayers and are already paying a fair contribution to the cost of the works. It is unjust that they are doubly disadvantaged in that they are also required to endure intolerable disruption over long periods of time, effectively rendering their homes uninhabitable.
- 51 We consider that the scale and extent of these works are such that our human rights to respect for our private lives and homes and to the peaceful enjoyment of our possessions (viz. our home and garden) are being unlawfully violated. The Promoters have made no adequate effort to address these matters and prefer an engineering solution which most greatly affects the residents of this house (and others in this stretch) whereas they could as cheaply and satisfactorily adopt another engineering solution such as tunneling or relocation of the lines within the cutting which would not so greatly affect this and other houses in PVE. Such solution have the backing of experienced engineers and are referred to in paragraphs 69 to 73 off the Joint Petition of PVRA and PVEHG. The environmental effects of the Promoters present solution, and the effects on your Petitioners, are massive and disproportionate. The Bill fails to provide acceptable mitigation or compensation.
- 52 We therefore invite this Honourable House to hold that the Secretary of State, Mr Patrick McLoughlin, was wrong in his statement published on the face of the Bill that the Bill was compatible with the Convention rights.

#### ***Conclusions***

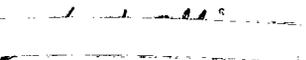
- 53 For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above, so far affecting your Petitioners, should not be allowed to pass into law.
- 54 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

YOUR PETITIONERS 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 so much of the Bill as affects the property, rights and interests of your Petitioners 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 Petitioners in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.

(signed)   
Elizabeth Blanche Birch

(signed)   
Boschetti Anthony Ellis

(signed)   
Blanche Alway Ellis

IN PARLIAMENT  
HOUSE OF COMMONS  
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST  
MIDLANDS) BILL

PETITION OF

- (1) ELIZABETH BLANCHE BIRCH
- (2) BOSCHETTI ANTHONY ELLIS
- (3) BLANCHE ALWAY ELLIS

AGAINST, By Counsel, &c.

David Mundy  
Bircham Dyson Bell

Elizabeth Birch,  
Anthony Ellis,  
& Blanche Ellis

3

20 May 2014