

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

HIGH SPEED RAIL (LONDON – 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 ROGER L. LOW.

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.

Clauses of the Bill

- 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.

Your Petitioner

- 7 Your Petitioner occupies a detached house at 30 Park Village East, London NW1 7PZ "the property." The property is held on a long lease from The Crown Estate. The house is Georgian and is a Grade II* Listed Property. The Petitioner and his family have lived in this house since 1980. Proposed construction of the railway "HS2", as described in the Bill and "London – West Midlands Environmental Statement" dated November 2023 "the ES" will reach within 4 metres of your Petitioner's front door. Thus your Petitioner is directly and specially affected by the provisions of the Bill.
- 8 Your Petitioner's property lies within the Regent's Park Conservation Area, on a road with similar villas designed by the architect John Nash. Each villa has a particularly large, mature garden, to the rear. Hence the properties offer a tranquil and relatively quiet setting, notwithstanding their location overlooking an existing railway cutting.
- 9 Your Petitioner is an active septuagenarian who receives State Pension but who continues to work from his home office as an Investor Relations Consultant, for which he is compensated. Your Petitioner suffers from pulmonary sarcoidosis, a granulomous growth on the lungs, which means he should avoid exposure to dust, chemicals, fumes, and toxic gases.
- 10 Your Petitioner is a member of The Park Village Heritage Group, which has submitted a Petition to your Honourable House. Your Petitioner endorses the Petition of the PVEHG in its entirety, and makes this further Petition to illustrate how the works in the Bill will directly and specially affect his rights, interests, health and property, for which no adequate provision has been made to protect or compensate your Petitioner.
- 11 Your Petitioner has met with many, many representatives of the Promoters on numerous occasions, over a period of more than two years. (For

simplicity's sake, this Petition will include HS2 Ltd, the DfT, Nominated Undertakers, etc. as the "Promoters.") Your Petitioner has requested changes to the works during those meetings and in responses to formal 'Consultations' held by the Promoters. The Promoters have recognised the specific issues facing the Petitioner and his neighbours, if HS2 goes ahead with its current plans, but the Promoters have refused to make changes in their plans.

- 12 Your Petitioner's rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons amongst others, hereinafter appearing.

Promoter's proposals which affect your Petitioner

- 13 Works which will take place in front of your Petitioner's property include, but are not limited to the following, which are more fully described in the ES:
- Demolition of 12 metre high retaining wall from the railway cutting in front of his house
 - Construction of a barrette wall to replace that retaining wall at a height of 35 metres high above HS2 track level plus 15 metres below track level, excavation for which will be within 4 metres of his front door and his office
 - Deep excavation and construction of that, and other, retaining walls in the cutting
 - Construction of a high speed 'dive under,' immediately in front of, and below, his property
 - Demolition and reconstruction of Mornington Street Bridge, the western end of which lies across the street from his property
 - Removal of a major water main from Park Village East in front of his house
 - Drilling underneath his house and property to install a 'ground anchor'
 - Works on the classic railway tracks, signalling and other systems
 - Installation of new tracks, gantries, signals etc. for HS2
 - Works to take place at, or near, his property, continuously, from 3Q2015 through 2Q2026, a period of 11 years of almost continuous disruption
 - Closure of his road, Park Village East, to vehicular traffic for a minimum of 12 months, meaning no vehicular access to his home for, at least, a year
- 14 During long periods of time, works in front of your Petitioner's house will take place 24 hours a day, 7 days a week, as much of the works are specifically exempted from time provisions of the Code of Construction Practice, as they will affect the running of the existing railway.
- 15 Since the introduction of the Bill, the report entitled "HS2 Plus" has been published, in which the chairman of HS2 Limited, Sir David Higgins, reviewed the project and made recommendations to the government about the future plans for the scheme. In that report, Sir David proposed, *inter alia*, that the government should look at a more comprehensive redevelopment of Euston Station. Thus, your Petitioner is unaware of all the possible effects of

HS2 upon him and his property. Nor is your Honourable House aware. The Select Committee of your Honourable House should, however, be aware that this is the same Sir David Higgins who, as CEO of the ODA, brought in the London Olympics on time and £6.5 billion over budget. (To be fair, he did not oversee the entire overspend.)

Effects upon your Petitioner

- 16 The ES refers, at numerous points, to the "major adverse effects" which construction of HS2 will have upon your Petitioner and his property. However, at no point does the ES nor the Promoters take a holistic view and link together the **impact** of those major adverse effects, their proposed **duration** of 11 years, and the **cumulative effects** upon your Petitioner and his property.
- 17 Your Petitioner notes that the Promoters have 'consulted' on compensation proposals related to the Bill (twice) and recently made decisions following that consultation process. Your Petitioner notes the gross unfairness of proposals that residents of rural communities are to be treated in a different, preferential, way from your Petitioner. Residents in rural areas will be able to claim the benefits of the Promoters' voluntary purchase scheme and other measures, which are not available to your Petitioner. This, notwithstanding that properties in rural areas may be 60 metres from the construction site and be eligible, yet your Petitioner's property is within 4 metres of substantial construction and he is not eligible. Your Petitioner understands that the rebuttable presumption for this is that the Promoters consider that residents of urban areas are used to having to put up with the adverse effects of construction works and railway noise and therefore are in some way more immune to their effects. Your Petitioner has lived in proximity to the railway for 34 years and is used to its effects. However your Petitioner is NOT USED to the effects of being within 4 metres of construction of the largest infrastructure project in Europe. Your Petitioner considers this to be grossly unfair and therefore asks your honourable House to amend the Bill to ensure proper compensation will be payable not only to those whose land is to be acquired, but also those who will be badly affected by the works, and that at least the equivalent compensation proposals are available to your Petitioner as are available to residents of rural areas.

Noise

- 18 Your Petitioner is baffled at how Promoters are able to predict noise levels for a day based on measurements for a half-hour period during November 2013 in front of a building on Park Village East MUCH LESS predict noise levels for the eleven year period of heavy construction. However, on their own figures, the Promoters say that noise levels on Park Village East will exceed those levels at which workmen are required to wear protective equipment.

Your Petitioner is concerned that operational noise and vibration, whilst meeting design standards put forward by the Promoters, may still be radiated into his property to an unacceptable level.

Your Petitioner has a home office. His livelihood depends on his being able to speak with clients and potential clients on the telephone. Your Petitioner humbly requests your Honourable House to require an undertaking by Promoters to fund INDEPENDENT experts to monitor noise levels on a real-time basis, to cease works when noise levels exceed an agreed level until such time as noise levels are mitigated, to provide mitigation—including air filtration systems and air conditioning systems, if necessary, to provide compensation for loss of livelihood if mitigation is insufficiently successful, and, *in extremis*, to provide permanent re-housing, on a like-for-like basis. Such monitoring to last from inception of construction through the first year of operation of HS2.

Air-borne pollutants

- 19 As mentioned above (at 9), your Petitioner suffers from pulmonary sarcoidosis. During the construction phase, dust, construction vehicle fumes, and other air-borne particulate pollutants are likely to be produced which could have an impact on your Petitioner's health and quality of life.

Your Petitioner humbly requests your Honourable House to require an undertaking by Promoters to fund INDEPENDENT experts to monitor pollution levels on a real-time basis, to cease works when pollution levels exceed an agreed level until such time as pollution levels are mitigated, to provide mitigation—including air filtration systems and air conditioning systems, if necessary, to provide compensation if mitigation is insufficiently successful, and, *in extremis*, to provide permanent re-housing, on a like-for-like basis. Such monitoring to last from inception of construction through the first year of operation of HS2. All such mitigation and management procedures to comply, at a minimum with the GLA's Control of Dust and Emissions Supplementary Planning Guidance, or the latest equivalent guidance in operation at the time.

Structural integrity

- 20 As mentioned above (at 7-8), your Petitioner's property dates from the early 19th century. It has no foundation but merely sits on a base several bricks high. It has, however, been entirely underpinned. Promoters propose digging a trench 100 ft deep immediately in front of your Petitioner's property. Further, they propose drilling a ground anchor UNDERNEATH your Petitioner's property, using a method which has never been tried on a Grade II* Listed Building, previously. Promoters have neither studied the underpinning of your Petitioner's property nor have they done soil testing at your Petitioner's property. Your Petitioner's property sits on a volatile

artificial ridge between the 18th century canal excavation and the 20th century railway excavation. Thus, there is risk that construction will affect the structural integrity of this Crown Estate Property.

Your Petitioner humbly requests your Honourable House to require an undertaking by Promoters to fund INDEPENDENT experts to survey your Petitioner's property prior to commencement of construction, to monitor effects of vibration and construction at your Petitioner's property on a real-time basis, to cease works at such time as said experts note prejudicial movement in the structure until such time as construction effects are mitigated, to provide compensation for complete renovation if mitigation is insufficiently successful, and, *in extremis*, to provide permanent re-housing, on a like-for-like basis. Such monitoring to continue through the first year of operation of HS2.

Access

- 21 Promoters' current plan is to close Park Village East to vehicular traffic, for long periods of time. Currently, your Petitioner is able to park his car off-street, in his own driveway. Stopping vehicular access is deleterious to your Petitioner's quiet enjoyment of his home, his family, and, quite possibly, his health.

Your Petitioner humbly requests your Honourable House to require Promoters to devise a plan which does not require closure of vehicular access to Park Village East. Such a plan will also have the benefit of mitigating noise, vibration, air-borne pollutants, and other blight. Engineers for the Promoters have advised your Petitioner that alternative plans to construction of a barrette wall exist, such as tunnelling in the cutting, shifting HS2 tracks eastwards in the cutting, approaching Euston Station by tunnel from another direction, and others. Promoters have refused to implement such alternative plans for reasons, they say, of cost. What Promoters fail to grasp is that by not using such alternative plans they are merely shifting the costs from HS2 to the innocent public.

Further

- 22 Your Petitioner humbly requests your Honourable House to require Promoters to remove spoils from Camden cutting by rail, or by conveyor belt through Parkway tunnel to some more convenient point for spoil to be loaded on rail. Further, your Petitioner humbly requests your Honourable House to require Promoters to deliver construction goods to Camden by rail. These measures will have the effect of mitigating blight in the area and reducing the construction vehicle movements which will tie up the roads in the Borough and emit pollutants. This is, after all, the construction of a RAILWAY, thus railway engineers should be particularly adept at using the railway in their construction processes.

- 23 The Code of Construction Practice "CoCP" is unfit for purpose. In the first instance, your Honourable House is being asked to vote upon it while it is merely in draft form. Your Honourable House is, further, being asked to vote upon Local Environmental Management Plans "LEMPs," which don't even exist. Thus, the Bill before your Honourable House is lacking in detail required by members of your Honourable House before voting upon the Bill. Approving the current Bill allows Promoters to drive a coach and horses through existing planning, health & safety, and other laws.
- 24 Your Honourable House will be aware that the budget for HS2 has swelled from £42bil to £50bil, whilst at the same time cutting back on the promised benefits, such as direct access to the Continent. Yet the budget has not been reduced for removal of benefits. Whilst one can only speculate by how much of taxpayer funds HS2 will eventually exceed budget, one can know two things: 1. Taxpayer subsidy of the OPERATION of HS2 will be in perpetuity and 2. Although nary a shovel has touched earth in the construction of HS2, the expenditure for professional services contracts on Phase I, up to February 2014 was £188mil, exceeding the budget of £101mil by 86%. Yet Promoters have admitted to the Environmental Audit Committee of your Honourable House that they have, to date, not even surveyed more than 40% of the proposed route. Were your Honourable House to pass the Bill, as currently drafted, your Honourable House would be writing an open cheque on taxpayer funds to the Promoters who, in any case, are passing on costs to the innocent public by avoiding mitigation and compensation measures.
- 25 The then-Secretary of State for Transport made a commitment in Dec 2010 that "Where a project that is in the national interest imposes significant financial loss on individuals, it is right and proper that they should be compensated fairly for that loss, so I have asked my officials to prepare a range of options for a scheme to assist those whose properties will not be required for the construction of the railway, but who will none the less see a significant diminution of value as a result of the construction of the line." (Hansard 20 Dec 2010, column 1203) The current proposals do NOT do that. Those who suffer ANY financial loss should be compensated fairly. Your Petitioner humbly requests your Honourable House to honour that commitment.

Conclusions

- 26 Your Petitioner avers that the intensity, duration, and cumulative effects of construction on his property and his road are not equalled on any other road, bar those properties which will, unfortunately, be demolished, throughout the entire length of Phase I. Thus, your Petitioner humbly requests that your Honourable House impose special provisions upon Promoters due to the intensity, duration, and cumulative effects—these provisions to include, *inter alia*, inclusion in compensation schemes available in rural areas and the specific undertakings proposed in 16 -25, above.

27 For the foregoing and connected reasons your Petitioner humbly requests that, unless the Bill is amended as proposed above, so far affecting your Petitioner, should not be allowed to pass into law.

28 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and his rights, interests and property and for which no adequate provision is made to protect your Petitioner.

YOUR PETITIONER therefore humbly prays your Honourable House that the Bill may not be allowed to pass into law as it now stands and that your Petitioner may be heard by himself, his 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 Petitioner and in support of such other clauses and provisions as may be necessary or expedient for his protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

~~AND your Petitioner~~ will ever pray, &c.

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AGAINST, By Counsel, &c.

