

IN PARLIAMENT

HOUSE OF COMMONS

Session 2013 - 2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS) BILL

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

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

THE HUMBLE PETITION of Mr Ivan John Parry

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 Ivan John Parry, who has resided in Balsall Common for 5 years in a property some 750 metres distant from the proposed railway, the owner/occupier of 89 Meeting House Lane, Balsall Common CV7 7GD ('the Property').
8. Your petitioner is a keen runner and walker and a frequent user of the public rights of way and in particular the Kenilworth Greenway.

As a regular user of these amenities your Petitioner objects that the proposed works will adversely affect the future enjoyment of this tranquil area.

9. **Kenilworth Greenway**

- 9.1 Your Petitioner is concerned that the Promoter intends to use heavy plant on this highly regarded amenity, which is a major resource for walkers, cyclists, horse riders, runners, naturalists etc.
- 9.2 Your Petitioner fears that the use of heavy plant will cause irreparable damage to its structure, its natural habitat and adjoining rights of way. The community will lose the use of this great amenity and will be given a poor replacement, which your Petitioner considers will be not fit for purpose.
- 9.3 The Promoter proposes that the Kenilworth Greenway be reconstructed from the south of Burton Green ref Works No 2/182, which would climb steeply up onto the cut and cover Burton Green Tunnel and continue north west to cross reconstructed Cromwell Lane ref Works 2/183 with a signal controlled crossing. The change in height of the Greenway would give it an increased gradient of 10%. This will be unsuitable for its present mixed use. Increases in speeds of cyclists would be unacceptable for other users. The gradient would be problematic and unsafe in winter when there is the risk of ice formation. The crossing junction will cause traffic flow difficulties due to its close proximity with the Hodgetts Lane junction. This will also give insufficient space for riders and walkers to assemble safely while waiting to cross the junction. A tunnel at a lower elevation is the optimum solution to these problems enabling the Greenway to continue with minimal change. Alternatively an underpass for the Greenway at Cromwell Lane so that the gradient is no more than 4 to 5%. Your Petitioner seeks an undertaking from the Promoter that the proposed railway will be constructed in a deep bored tunnel at Cromwell Lane to avoid major disturbance to the Greenway or that the Greenway will be provided with an underpass at Cromwell Lane with a gradient somewhere between 4 to 5%. Costs in respect of the maintenance of any changes to the Greenway to be borne by the Promoter.
- 9.4 The Promoter proposes to replace over 1.5 kilometres of the Greenway with a substitute route ref Works 2/182. The current bridleway way and cycle route runs in a cutting, whereas the new route would run on higher ground above Burton Green Tunnel and the new cutting ref Works 2/146. Some 200 metres south easterly of

Little Beanit Farm the proposed route then descends 5 metres into the original cutting on a ramp with a gradient of 10%. As per 9.3 this would be unsuitable and unsafe. The Petitioner seeks an undertaking from the Promoter that the gradient of the ramp will be no more than 5%.

- 9.5 Your Petitioner considers the Promoter has not left sufficient room for noise barriers and the planting of trees and shrubs between the reinstated Greenway and the proposed railway ref Works 2/146 close to Little Beanit Farm. Your Petitioner seeks an undertaking from the Promoter to provide adequate space for an effective noise barrier and planting of foliage to conceal the barrier.

10. Noise

- 10.1 As expressed above your petitioner has concerns with regards to matters of noise and vibration caused by the construction and operation of the high speed railway. 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 ground borne noise have not been properly considered or explained to impacted communities and the limit for ground borne noise does not reflect recent or practice or experience and the methodology used for predicting the impact of ground borne 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 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.
- 10.5.5 HS2 Ltd be required to commit to the same threshold for ground borne noise as the Northern Line Extension- meaning ground borne 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. Waste

- 11.1 Your Petitioner is concerned that the impact of the amount of waste to be excavated and removed from the construction of the proposed railway has been underestimated and the environmental impacts of removal and disposal of such waste has been needlessly worsened because of the primacy (in UK and EU law) of the requirement to seek to avoid disposal of waste and comply with the principles of the waste hierarchy has been ignored by HS2 Ltd.
- 11.2 Your petitioner is concerned that the forecasts provided for amounts of waste to be excavated and removed from this area appear to be contradictory and take insufficient account of local authority planning policies.
- 11.3 Your petitioner requests that: HS2 Ltd be required to comply with the requirements of the Waste Framework Directive and review its decisions on treatment of waste to ensure compliance with the waste hierarchy as detailed in that Directive. Such review should include publishing details of the "integrated design approach" to waste management and subject to consultation to enable effective public participation on this issue.

12. Code of Construction Practice

- 12.1 Your Petitioner is concerned that the nominated undertaker's ongoing accountability 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. 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.

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 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.

13. Compensation

13.1 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.

13.2 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.

14. 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.

15. 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.

16. 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 PRAYS 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 pray, &c

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SIGNED

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HOUSE OF COMMONS

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PETITION OF Ivan John Parry

AGAINST, By counsel, &c

Contact Details:

[Redacted contact details]