

IN PARLIAMENT
HOUSE OF
COMMONS
SESSION

2013 - 2014

HIGH SPEED RAIL (LONDON TO WEST MIDLANDS) BILL

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

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

THE HUMBLE PETITION of **OSWALD DE SYBEL**

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 **Oswald de Sybel** (hereinafter referred to as 'the Petitioner'), of "Small Dean End", Small Dean Lane, Wendover Bucks HP22 6PQ ('the Property'). He is 64 years of age and has lived in the property with his wife since 2009.
 8. The Bill would authorise the construction and operation of the railway through and near Wendover. The proposed line would run within 700m of your Petitioner's property.
 9. Your Petitioner and his interests are injuriously affected by the Bill, to which your Petitioner objects for reasons, amongst others, hereinafter appearing.
 10. Your Petitioner's property is shown as 101-2-004 in map numbers LV-04-036 and LV-03-036 described as "operational phase significantly affected viewpoints" Mapbook volume 2 CFA10.
 11. Objection is taken to both the construction and operation of certain of the scheduled works proposed to be undertaken in and near Wendover between Little Missenden and Stoke Mandeville. These works consist mainly of an embankment between Hartley Farm and Road Barn Farm; Small Dean viaduct; and an embankment between the northern end of Small Dean viaduct and the southern end of the Wendover green tunnel. They include ancillary works such as satellite compounds, auto-transformer stations, balancing ponds and portal buildings.
 12. Your Petitioner avers that during construction of the scheduled works there would be the following effects:
 13. Disruption of traffic and substantial delays along all local roads, caused by around 300 HGVs per day, especially the A413 and the B4009, which your Petitioner uses every day, and the A41, which he uses on a regular basis.
 14. Dust caused by chalk and soil from construction and excavation, leading to the exacerbation of respiratory problems for my wife, children and grandchildren to say nothing of my neighbours who have two small children and next door to them are an elderly couple. On storage chalk dries out, creating dust, the effect of which will be made worse by the prevailing south-west wind, which blows directly onto your Petitioner's property
 15. Substantial damage to this part of the Chilterns Area of Outstanding Natural Beauty (AONB) with its exceptional natural beauty.
 16. Substantial damage to the local cultural heritage, including St Mary's Church, which I visit for cultural occasions.
 17. Disruption to power supplies caused by the need to move the electricity pylons near the line.

18. Noise from machines digging the green tunnel, moving spoil, constructing embankments and viaducts and traffic connected therewith, leading to inability to concentrate during the day, and inability to sleep at night.
19. Light over the construction area causing light pollution. Your Petitioner lives in an area where there is little artificial lighting, so this incursion of light would be very noticeable.
20. Your Petitioner avers that the operation of HS2 following the completion of the proposed scheduled works would have the following permanent effects:
21. Your Petitioner's view of the Chiltern Hills in the AONB would be permanently scarred by the obtrusive viaduct and embankment (500 metres) above ground level with gantries a further 15 metres high. The line would be visible from numerous viewpoints in the locality including his own property. It would be overbearing and dominant in the landscape.
22. Your Petitioner's view of the Chiltern Hills would also be permanently damaged by trains up to 400 metres long passing every two minutes.
23. The noise from these trains would cause an intolerable strain upon your Petitioner's life and affect his sleep. At the distance from the line where he lives the noise would be spread over a longer time period, and thus be heard for approximately one minute in two. This is in an area which is at present one of peaceful tranquillity.
24. The value of your Petitioner's house has already been adversely affected, and will continue to be so on a permanent basis.
25. The damage to local facilities would be substantial, both those of value to your Petitioner such as St Mary's Church for its community uses, and those of value to Wendover as a community such as the cricket ground, which would be destroyed.
26. Your Petitioner considers that during construction of the scheduled works there would be the following effects; disruption of traffic and substantial delays along all local roads caused by 300 HGVs per day, especially the A413 and B4009, which your Petitioner uses every day and the A41, which he uses on a regular basis.

27. **Limits of Deviation**

- 27.1 Your Petitioner is concerned that paragraph 1(2) of Schedule 1 of the Bill provides that in constructing or maintaining any of the scheduled works the undertaker can deviate vertically upwards not exceeding three metres, vertically downwards to any extent and laterally to any extent within the limits of deviation shown on the deposited plans.
- 27.2 Your Petitioner is concerned that these deviations could potentially make significant differences to the impacts of the construction and operation of the high speed

railway and associated development, for example by raising the track height to the detriment of the amenity of the landscape. These potential environmental impacts are not adequately addressed in the environmental statement, which provides that the undertaker only has to use reasonable endeavours to adopt measures to reduce adverse environmental effects provided it does not add unreasonable cost or delay to the construction and operation.

- 27.3 Your Petitioner requests that the provisions in the Hybrid Bill to allow deviation should be deleted.

28. Noise

- 28.1 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.

- 28.2 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.

- 28.3 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.

- 28.4 Your petitioner is concerned that the specific impacts of groundborne noise have not been properly considered or explained to impacted communities and the limit for groundborne noise does not reflect recent or practice or experience and the methodology used for predicting the impact of groundborne noise is insufficiently robust and no amelioration measures have been suggested to deal with this problem.

28.5 Your petitioner therefore requests

- 28.5.1 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).
- 28.5.2 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.

28.5.3 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.

28.5.4 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.

28.5.5 HS2 Ltd be required to commit to the same threshold for ground borne noise as the Northern Line Extension- meaning groundborne noise levels no greater than 25dB LpAsmax for rural areas and 30dB LpAsmax for urban areas.

28.6 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.

28.7 Your Petitioner requests that Clause 35 and schedule 25 are deleted from the Bill.

29. **Waste**

29.1 Your Petitioner is concerned that the impact on local communities of the amount of waste to be excavated and removed from the construction of the high speed 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.

29.2 Your petitioner is concerned that the forecasts provided for each Community Forum Area for amounts of waste to be excavated and removed from that area appear to be contradictory and take insufficient account of local authority planning policies.

29.3 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.

30. **Code of Construction Practice**

- 30.1 Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified. The Code of Construction Practice does not identify how any lead contractors will be made to comply and the redress and appropriate action that might be taken in the event that the contractors do not comply with the Code of Construction Practice. Assessment in the environmental statement is made on the assumption that the Code of Construction Practice and the strategies will be fully effective, however, the Code of Construction Practice has no legal status
- 30.2 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.
- 30.3 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.

31. Air Quality

- 31.1 Your Petitioner is concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development.
- 31.2 Your Petitioner requests that before construction there should be an air quality baseline monitoring study benchmarked against the Air Quality Standards Regulations 2010 and a copy of this report should be made public. Your petitioner submits that thresholds for air quality and an air quality mitigation plan should be produced for each Community Forum Area, to apply both during construction and operation of HS2.
- 31.3 Your Petitioner requests 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 Petitioner submits that the Bill should be amended to enable the local authority to require the cessation of construction activities until such point as air quality thresholds are complied with.

32. Hydrology

- 32.1 Your Petitioner, who relies on a bore-hole for water supply to the property is concerned about the danger of water pollution arising from the construction and operation of the proposed high speed railway and associated development and the run-off into surrounding watercourses and balancing ponds, as well as the expected flow rates or impact on surrounding transport links.
- 32.2 Your Petitioner requests that throughout construction there should be sampling of surface water at different locations surrounding each construction site and these samples should be independently tested at a United Kingdom accreditation service laboratory. The results from the sampling should be shared with the Environment Agency and the relevant local authority. The results should be benchmarked against accepted water quality levels.
- 32.3 Your Petitioner is concerned that the Hybrid Bill seeks to undermine long-standing and important legal safeguards concerning the safety of drinking water.
- 32.4 Your Petitioner requests that Clause 31 and schedule 20, which override key legal safeguards that protect public water supplies be deleted from the Hybrid Bill.

33. **Compensation**

- 33.1 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.
- 33.2 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.

34. **Ecology**

- 34.1 Your Petitioner is concerned about the adverse impacts of the construction and operation of the high speed railway and associated development on fauna and flora. Your Petitioner submits that there should be binding mitigation measures to reduce the adverse impacts on ecology including but not limited to avoiding ancient woodland, migration routes for wildlife across construction sites and the operational high speed railway and associated development, and compensatory measures to offset habitat loss and other damage to species.

- 34.2 Your Petitioner requests that in accordance with the House of Commons Environmental Audit Committee Report dated 2 April 2014, a process should be established to monitor all aspects of environmental protection needed for 60 years following the start of construction and operation of the railway, including biodiversity mitigations, compensation off-set. This process must be managed by an independent body, which monitors and publicly reports progress against the “no net biodiversity loss” objective. A detailed costing should also be established for monitoring and reporting and for the environmental protection being overseen, and ring-fence these environmental protections and a separate budget for these purposes.
- 34.3 Your Petitioner requests that other recommendations in the House of Commons Environmental Audit Committee Report dated 2 April 2014 are also followed including but not limited to the revising the environmental statement to distinguish clearly between mitigation and compensation measures in respect of biodiversity, carry out outstanding environmental surveying as soon as possible, weighting metrics for biodiversity offsetting towards production of biodiversity gains and taking explicit account of communities’ wellbeing, adjusting metrics to encompass the precautionary principle, treatment of ancient woodlands should be separately from the overall biodiversity net loss calculation, re-examining scope for off-site biodiversity compensation, research on alternative discount factors for the off-setting metric.
35. 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.
36. 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. As an alternative to the HS2 project your petitioner proposes that part of the scheduled works be replaced by a fully bored tunnel.
37. **The benefits of a fully-bored tunnel**
38. Your Petitioner proposes that part of the scheduled works be replaced by a fully-bored tunnel from Little Missenden to the end of the AONB to the north of Wendover. This would avoid most of the disadvantages set out in paragraphs 11-20 above and all the disadvantages set out in paragraphs 21-26 above.
39. Chiltern Ridges Action Group has proposed such a fully-bored tunnel in a report by Peter Brett Associates, and HS2 Ltd has confirmed that from an engineering and construction point of view it is feasible.

40. HS2 Ltd has said that such a tunnel would cost £330 million more than the present proposal. However, it has refused to divulge any detail of this figure, or even the tender documents on which it was based, and there is considerable evidence that the figure is seriously exaggerated.
41. Moreover, it seems that HS2 Ltd has not taken into account the value of the benefits which a fully-bored tunnel would bring, such as the money saved by not having to compulsorily purchase properties and land, or move electricity pylons, and not damaging the environment. These benefits are valued at over £500 million.
42. For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended by the inclusion of a fully-bored tunnel from Little Missenden to the end of the AONB to the north of Wendover, then the Bill should not be allowed to pass into law.
43. **Mitigation for construction of a fully-bored tunnel**
44. If a fully-bored tunnel is included in the Bill, your Petitioner proposes that at least the following mitigation be adopted for its construction:
45. That the operation of construction traffic on the A413 and the B4009 only be permitted during the agreed working hours, excluding rush hour (7-9am and 5-7pm) on weekdays.
46. That the number of construction vehicles using local roads be limited, and at all times be such as not to inconvenience other road users.
47. That the removed spoil should not be permitted to be dumped in the Chilterns AONB, and that all spoil should be removed by rail, not road.
48. That a traffic management plan be agreed before construction starts with the local county, district and parish councils, such plan to go to arbitration if agreement cannot be reached..
49. That the permitted working hours for all matters relating to construction be strictly limited to 8am to 6pm on weekdays, 8am to 1pm on Saturdays and not at all on Sundays, with an hour before and after for start-up and close down.
50. That acceptable noise levels be agreed before construction starts with the local county, district and parish councils, such noise levels to go to arbitration if agreement cannot be reached.
51. That noise levels be monitored on a frequent and regular basis by an independent organisation, with the result of such monitoring be immediately made public.

52. That artificial lighting at construction areas be limited to working hours.
53. That the maximum level of toxic traffic emissions from construction traffic be agreed
54. before construction starts with the local county, district and parish councils, such emission level to go to arbitration if agreement cannot be reached.
55. That funding be made available to Wendover Health Centre and local hospitals for the provision of any necessary additional facilities to cope with increased health problems, such as sleep disturbance, respiratory illness and hypertension, and including those caused by traffic emissions and dust created by the construction of the scheduled works.
56. That funding be made available to the local police force for increased staffing likely to be required due to the advent of a substantial construction workforce.
57. That full compensation for damage to property or loss in property value caused by construction of the scheduled works be available to all those who suffer such loss.
58. That the maintenance loop at present proposed to be located to the north of Wendover be moved to an area where there are much larger permanent works scheduled.
59. That the Code of Construction Practice, and regulations and agreements dealing with all the above matters in paragraphs 33 to 43, be legally enforceable both at criminal and civil law, with civil law breaches being first dealt with by an Ombudsman, and the local county council having the right to bring both criminal and civil proceedings.
60. There are other clauses and provisions in the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights, (including their human rights) interests and property and for which no adequate provision is made to protect your Petitioner and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONER THEREFORE HUMBLY PRAY your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by their Counsel, Agents and witnesses in support of the allegations of this Petition against such of the clauses and provisions of the Bill as affect the property, rights and interests of your Petitioner and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

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SIGNED

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HIGH SPEED RAIL (LONDON TO WEST MIDLANDS BILL)
PETITION OF *OSWALD DE SYBEL*

AGAINST, By counsel, &c