

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 PHILIP JOHN JARVIS

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 dis-apply 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 is Philip John Jarvis a freehold owner of Silver Birches, Potter Row, Great Missenden, Bucks, HP16 9LT. This property will be directly and specially affected, during the operation and fitting out phases for HS2. A Parliamentary Notice received indicates that approximately 30% of the property may be compulsorily acquired. Potter Row is situated in the Chilterns Area of Outstanding Natural Beauty [AONB] in the village of South Heath which was described in the ES as set to expect 'major adverse effects on residential amenity' and 'isolation' effects.
- 8 Your petitioner's rights, interests and property are injuriously affected by the Bill, to which your petitioner objects for reasons amongst others, hereinafter appearing.
- 9 Your petitioner's property, Silver Birches, is a 1940's detached house set in tranquil garden surrounded by fields on three sides and an allotment area on the fourth. The boundary of the property is approximately 125m from the centre line of the proposed railway and the house about 195m. The Environmental Statement (ES 3.2.1.9 Section 5.5.4) states:

*The residents of approximately ten properties on Potter Row in South Heath are predicted to experience in-combination effects associated with the operation of the Proposed Scheme. These in-combination effects are:*

- *significant visual effects due to views of the Leather Lane overbridge, the South Heath green tunnel north portal and the South Heath cutting; and*
- *significant daytime noise effects from the passing trains.*

Section 5.5.5 states:

*The combination of these effects will have a major adverse effect on residential amenity and is therefore considered to be significant.*

Your petitioner's property is one of the ten properties referenced.

- 10 Your petitioner lives in the property with his wife, daughter (aged 10) and son (aged 8). Your petitioner and wife both commute to London by train from Great Missenden station for work. Your petitioner's children both attend school in Great Missenden.
- 11 Your petitioner's garden and house are 125 – 195m from the centre line of the railway and will be seriously affected by dust and noise levels both during construction and once the line is built. Your petitioner believes that it will no longer be possible for him, his wife and his children to enjoy the amenities of his house and garden. Your petitioner believes this will have a significant adverse effect on the well-being of his young children. Noise would also severely impact upon the neighbourhood's general amenity, and open spaces. This and the visual

obtrusiveness and loss of natural landscape will severely and permanently reduce the attractiveness of the area and thereby damage an important national asset. Even by year 15 it will be seen from over 20 sq. kms of the AONB.

- 12 Your petitioner is gravely concerned about the effects, during construction, of noise, dust and vibration. Dust from the Hunts Green spoil dump, due to prevailing winds, will blow towards properties in Potter Row, exacerbating lung and asthmatic problems. Many of the properties in Potter Row are old – several built in the 1830's- and some are built on clay with shallow foundations and could be gravely affected by ground borne vibration. Your Petitioner is concerned about the level of exposure to the noise of operations from the footpaths, the lanes in the immediate vicinity of HS2, and the portals.
- 13 Your petitioner believes that Potter Row – a narrow, winding country lane which has been designated as a Construction Route by HS2Ltd is particularly unsuitable for this purpose. From the ES, your petitioner has estimated that there could be as many as 460 LGV and 60 HGV trips one way daily along Potter Row travelling to and from the proposed line over bridge compounds at Leather Lane and the spoil dump at Hunts Green which is the proposed location for the placement of 850000 cu m of spoil. Potter Row is already difficult for larger vehicles i.e. commercial vehicles and farm vehicles such as tractors to pass each other without one of the vehicles having to stop. (A fatal accident occurred 7 years ago when a motorbike rider collided with a tractor and trailer which was turning right in to one of the several field entrances along Potter Row.) Your petitioner and wife regularly use Potter Row for dog walking and visiting neighbours. Your petitioner 's children regularly use Potter Row for walking and cycling. Your petitioner is therefore deeply concerned about the safety of his family if Potter Row is to be used by construction traffic.
- 14 Your petitioner is extremely concerned that road closures i.e. Frith Hill and construction traffic on Potter Row and Kings Lane will lead to difficulties of isolation and in accessing Great Missenden, upon which Potter Row residents are reliant for facilities such as the train station, supermarket, chemist, newsagent, Post Office, Library as well as doctors surgeries. Your petitioner and his wife's ability to commute to work will be severely impacted. Your petitioner's children's journey to school will be severely impacted.
- 15 Your petitioner is particularly concerned about access for emergency services, in particular ambulances as Potter Row has several properties which are occupied by older residents who are in their late 70s and 80s. The temporary closure of Frith Hill and Leather Lane plus traffic congestion on Potter Row and Kings Lane will dramatically impede the progress of emergency vehicles.
- 16 Your petitioner is also concerned that they will be subject to significant adverse visual effects from the proposed route when constructed. Your Petitioner is gravely concerned that line will create an unacceptable visual impact along the AONB section of the line from Mantles Wood then parallel to Potter Row and on to Wendover and that the raised embankments and viaducts plus the overhead lines and gantries would, together with the light pollution, and other ancillary structures will constitute a major permanent eyesore along this section of the AONB. Your petitioner is also gravely concerned that the depth of the cutting along the length of tunnel parallel to Potter Row was made shallower last year, contributing to increased visual intrusion
- 17 Your Petitioner is also concerned about the long term damage and permanent injury

from visual and acoustic impacts in the AONB of the operation of the line between Mantles Wood and Wendover, and its supporting infrastructure and furniture. The destruction of ancient woodlands (that represents 30% of all the losses to ancient woodlands on the line), the loss of farmland and landscape, the proposed new dump of spoil at Hunts Green Farm, the embankments and viaducts across the valley, the permanent stopping up and re-routing of PROW, all add up to a severe impact on this area of the Chilterns AONB.

- 18 HS2 crosses the widest part of the AONB and less than 50% is in a bored tunnel. Between Mantles Wood and Wendover, Buckinghamshire, the proposed route is on the surface and includes sections in shallow cuttings, on two viaducts, on embankments and in two green tunnels. This area is designated as an Area of Outstanding Natural Beauty under Section 85 of the Countryside and Rights of Way Act 2000 (CROW Act) and is further protected under the National Planning Policy Framework and the European Landscape Convention.
- 19 Your Petitioner is concerned that the Promoter of the Bill has ignored the obligations to protect the AONB, and cannot understand how they consider that the proposed surface route of the line for this area meets the requirements to protect and preserve the tranquillity of the area and the beauty of its landscapes.
- 20 Your Petitioner is gravely concerned about the 'sustainable placement' of spoil in the AONB (at Hunts Green) as a contravention of the provisions protecting the AONB in the 'Countryside and Rights of Way Act 2000'. This large scale redesign of the landscape is incompatible with its status as an Area of Outstanding Natural Beauty. A spoil heap, if created behind Hunts Green, will take years to settle and become established and will, in any event, create an artificial hill and an unacceptable scar in the AONB. It will be more than twice the size of Green Park.
- 21 Your petitioner is concerned about the loss of natural habitats for wildlife and habitat severance as the railway constitutes a barrier. There will also be an unacceptable effect on owls and bats who we are informed in the ES will be killed within 1.5km of the line.
- 22 Your petitioner is concerned about the property blight effects on the value of his home, with over 2,500 homes within 1km of the line in the section of the AONB which is not in a bored tunnel. Your petitioners' home is now permanently blighted and has been since 2010. The blight impacts on the value of his home and his ability to sell. It is causing your petitioner and his family great anxiety and stress, and the compensation arrangements are wholly inadequate in addressing the problems. A local Estate Agent has indicated that he would not be able to market the property due to the blight.
- 23 Your Petitioner is gravely concerned about the inadequacy of measures proposed to mitigate the effects of construction traffic and the intended diversions and road closures throughout the section of the proposed line which is in the AONB, and in the Misbourne Valley in particular and that this will place a further burden on the roads in this community, which are already under pressure. There will be a consequent effect on the businesses of Great Missenden and Chesham in particular that will suffer from loss of custom, due to difficulties of access.,

- 24 Your Petitioner is concerned that the nominated undertaker's ongoing accountability is unspecified and that the Code of Construction Practice is inadequate and has no legal status, with no independent means of monitoring and assessing compliance or sanctions for breach.
- 25 Your Petitioner is concerned about the impact of the construction works on the chalk stream of the River Misbourne and the damage to the quality of drinking water supply
- 26 Your petitioner is gravely concerned about the spoil to be excavated and arrangements for movement and storage of spoil that will create pollution and congestion.
- 27 Your Petitioner is concerned that land which is occupied and utilised by contractors during construction will not be cleared and restored after completion to a satisfactory standard for the AONB or in the worst case that it will simply be abandoned by the contractors
- 28 Your Petitioner is also concerned about errors and omissions in the Environmental Statement and matters which your petitioner understands will be clarified or corrected at a later stage and that these may call for further mitigation or remedies to be considered by the Select Committee
- 29 Your Petitioner wishes to express concern regarding the poor provision of information supplied by the promoter, including in particular errors and omissions in the Environmental Statement with Plan and profile maps remaining unavailable, and furthermore, supplementary information such as the Code of Construction Practice has remained in draft form.
- 30 Your Petitioner strongly objects to the diversions and closure of public rights of way in the area and the reinstatement of some PROWs by making them run alongside the line rather than by new footbridges and is further concerned that, for this section of the AONB, none of these are to be green bridges despite the intentions of the Promoters to build green bridges elsewhere along the route.

### **Remedies /Mitigation requested**

- 31 Your petitioner requests that measures be taken and changes be made in the Bill or the Code of Construction Practice or by obtaining binding undertakings from the Promoter to address the various concerns of your Petitioner as listed above.
- 32 Your Petitioner requests that the AONB be protected from these effects by amending the Bill so the line passes throughout the AONB in a bored tunnel, as proposed by the Chiltern District Council<sup>1</sup> or by extending the present Chiltern tunnel proposals by adopting the CRAG T2<sup>2</sup> proposals. The latter is referred to in the Environmental Statement and accepted as both feasible and environmentally preferable. Either of these options would substantially remove the adverse effects complained of in this petition and the need for the proposed remedies otherwise required.

<sup>1</sup> <http://www.chiltern.gov.uk/article/4429/HS2---Campaigners-launch-their-case-for-Going-Underground-to-preserve-AONB>

<sup>2</sup> <http://www.thelee.org.uk/HS2%20storage/Proposals%20for%20the%20Chilterns%20Tunnel%20Extension%20Dec%202013.pdf>

- 33 Your petitioner requests that, if the proposal for a full tunnel throughout the AONB is rejected, then the Proposers Chilterns' bored tunnel should be extended at minimum for 4kms from Mantles Wood to Leather Lane. The South Heath Chilterns Tunnel Extension<sup>3</sup> (referred to as the REPA tunnel in the ES at Vol. 2, 2.6.18 CFA 9 but extended to Leather Lane) has acknowledged substantial environmental benefits, and for no net cost can preserve a further 4km of the AONB from adverse effects.
- 34 In the absence of extending the Chilterns' tunnel then the following mitigations would be needed to ameliorate the worst of the effects, and your Petitioner requests that provision is made for:
- a. The cuttings from South Heath to beyond Leather Lane should be made deeper, and return to the levels originally proposed by the 2011 consultation, there should be continuous full height (5m) high specification sound barriers (both sides of the line) immediately adjacent to the track running from South Heath to beyond leather Lane to reduce noise, and with bunds to conceal the line and the gantries where appropriate. Furthermore the South Heath Green Tunnel should be extended to provide better protection in operation to Potter Row and South Heath and the footpaths out of Great Missenden to Potter Row
  - b. The size of bund South-West of Silver Birches (Map CT-06-034a; H6) has been reduced since Draft Environmental Statement – this should be reinstated to provide more protection for properties in Potter Row and users of the AONB. The bund should also continue further in the direction of South Heath where as it seems to have been cut short to allow for the Balancing Pond.
  - c. That the power for the contractor to raise the line by up to 3 metres is excluded for the AONB section of the line
  - d. That the existing proposed green tunnel at Wendover be extended to the south and north of Wendover.
  - e. That provision is made for constructing bridges where there are established rights of way, and to make these green bridges, in order to retain trees and shrubs and permit wild life access, particularly given that this is part of the AONB
  - f. That the speed of the trains be reduced as per the recommendation of the House of Commons Environmental Audit Select Committee Report, but permanently, in order to help reduce the environmental impact.
  - g. That compensatory planting commence at the earliest opportunity and with the use of mature trees able to grow to at least forty feet high, in order to conceal the line from view at the earliest possible time – with funding for their maintenance in perpetuity. Where this replaces ancient woodland it should adopt the 30:1 ratio supported by the Woodland Trust and not 4:1 as currently proposed
  - h. That the plans for the Hunts Green Spoil Dump are cancelled and that arrangements be made for the spoil to be removed from the area by rail or pipeline. Your petitioner points out that, if the full tunnel proposals are adopted, then the amount of spoil involved for this section of the line will be very substantially reduced and it would also all be removed at the Wendover exit of the tunnel, and that if even the REPA tunnel is adopted, according to HS2 Ltd there would be no need for the Hunts Green landfill site, as there would be no surplus spoil.
  - i. That in relation to the balancing ponds and other water management

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<sup>3</sup> <http://www.repahs2.org.uk>

measures, that alternative techniques are considered in consultation with the local authority, and that if necessary waste water is tanked and then removed for sustainable disposal

- j. That the pylons are removed and the power lines are reinstated underground, rather than moved and then re-instated on the surface, as proposed
- k. That property blight is compensated by extending the HS2 voluntary purchase scheme and amending the "need to sell" scheme so that having sufficient financial resources should not disqualify an applicant who otherwise has a reason to move. The South Heath and Potter Row area itself should be recognised as a community suffering blight.

35 Your Petitioner requests that the nominated undertaker be required to mitigate the remaining nuisances, by giving the Code of Construction Practice legal effect, with independent assessment of compliance and sanctions for breach. The Code should specify, in all cases, the need for work, facilities and construction, to be to the best available standards and techniques, and to the highest standard of construction and operation of the railway and its associated developments. The Code should be so amended to enforce the following measures:-

- a. Constructing new temporary roads to access the trace directly from the A413, and prohibiting the use of all existing minor roads in the AONB to be used by construction traffic eg Potter Row, Kings Lane, Hyde Lane, Hyde Heath road, Frith Hill South Heath leg).
- b. Restricting HGV movements to the period 09:30 – 15:30 throughout this section of the AONB.
- c. Additionally prohibiting HGV movements along school routes between 15:00 and 15:30.
- d. Prohibiting any widening, straightening or enlargement of the narrow minor lanes for construction traffic.
- e. That the contractors should be required to construct the railway to ensure that during construction and operation of the line noise, dust and vibration is minimised and monitored and that air quality is maintained
- f. Operating a 'Park and Ride' scheme to transport construction workers along the trace, and enforcing this by not providing parking for contractors at the construction compounds.
- g. That contractors in the AONB will be required to restore the land and temporary access roads after use to acceptable AONB landscaping and that local authorities be given the power to inspect such works and if necessary sanction contractors
- h. During construction, the nominated undertaker must be responsible for maintaining the quality of all roads used during and after construction, so that the roads must be returned to its original size and character, and all damage repaired by the nominated undertaker.
- i. That the Promoter provides an air ambulance with crew on standby during working hours, to ensure that medical emergencies receive a prompt response.
- j. A hotline should be set up allowing road users to report any damage to the road, and the highway authority should have access to all reports, to ensure these are addressed and remedied in a reasonable length of time.
- k. That in relation to the River Misbourne, full surveys and continuing monitoring should be undertaken regarding water quality and the effect of the construction works, with actions undertaken, including cessation of construction in this area, if any adverse impacts are found

36 The ongoing lack of information has made it particularly difficult to understand the full

impacts of HS2, and therefore not only has commenting on the project been particularly difficult but, when the information is corrected or made available, as appropriate, that any new or revised issues will not have been specifically raised or referred to in your Petitioner's petition. Your petitioner requests therefore that, if such further matters regarding this do arise, your petitioner will be permitted to raise such matters with the Committee

### **Full Tunnel proposal**

- 37 The Petitioner emphasises that the mitigation measures set out in paragraphs 34 and 35 above would in large measure be unnecessary and the impacts would be otherwise effectively mitigated if the Bill were to be amended to include the provision of a full tunnel throughout the AONB.

### **Objection to the detailed route and speed**

- 38 Your Petitioner doubts that the current route that accommodates the proposed inappropriately high speed through the AONB would have been selected had a Strategic Environmental Assessment been conducted, since the obvious difficulties now apparent in constructing a line through this area would have become apparent. A lower speed would allow HS2 to use existing transport corridors and greatly reduce environmental impacts, while adding little to journey times. Dropping the maximum speed from 225 mph to 185 mph adds just 4.5 minutes to the London – Birmingham journey time, according to the draft ES. 'Future proofing' the route to allow 250 mph in the future, increases the environmental damage caused by the route.
- 39 Your Petitioner requests that a lower speed be adopted –such as that of HS1 – and a route be determined and adopted that exploits the greater ability for following existing corridors and avoiding sensitive environments.
- 40 The list of grievances above is by no means exhaustive and, due to the inadequacy of and omissions and errors in the Environmental Statement prepared by HS2 Ltd , it is inevitable that that the construction of HS2 will disrupt the lives of the residents in the AONB, including those of your Petitioner, in ways which have not yet been realised.
- 41 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, the relevant clauses so far affecting your Petitioner should not be allowed to pass into law.
- 42 There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner, your Petitioner's Residents and their rights, interests and property and for which no adequate provision is made to protect your Petitioner and your Petitioner's Residents.



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 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 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 Petitioner will ever pray, &c.

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HIGH SPEED RAIL  
(LONDON-WEST MIDLANDS)  
BILL

PETITION OF Philip John Jarvis

AGAINST, By Counsel, &c.

Philip John Jarvis  
Solicitor General  
Barristers  
General London  
Office  
London