

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 Robert Hare

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, 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 Objection is taken to the works to be undertaken within the Chilterns Area of Outstanding Natural Beauty, and in particular to works 2.13 to 2.27 (listed in Schedule 1 of the bill) in the parishes of Little Missenden, Great Missenden, Chartridge and The Lee, and to the clauses of the bill which would authorise these works.
- 8 Your Petitioner resides within the Chilterns Area of Outstanding Natural Beauty and is the freehold owner of 12, Harvest Bank, Hyde Heath, Amersham, HP6 5RD
- 9 Your Petitioner and his rights and interests are injuriously affected by the Bill, to which your Petitioner objects for reasons amongst others, hereinafter appearing.

Objection to the route in principle which is flawed, generating unnecessary and illegal maximum environmental damage to the area your petitioner resides

- 10 Although your petitioner is aware that the Select Committee of your honourable House is unable to consider cases which object to the principle of the Bill, your petitioner nevertheless wishes to express his objections in keeping with the conclusions and recommendations of the Environmental Audit Committee of your house who recommended that the route of HS2 should be fixed as a station in London and Station in Birmingham and the route and its impact on the environment should be left open to question. Your petitioner has serious concerns regarding the selected route and wishes to question the extent of environmental damage, assessed and unassessed together with the as yet uncosted mitigation budget which will greatly increase the construction costs relative to alternative viable routes. Indeed, as costs of correct mitigation for the damage to the AONB exacerbate the ever increasing budget, this has an as yet unassessed impact on the business case of HS2. Your petitioner regards the current budget of £42.6bn expressed by Sir David Higgins in his March 2014 cost review to be erroneous as indeed it was expressed in 2011 Prices and does not include the cost of correct mitigation of the AONB. This certainly warrants revisiting the alternative routes that require less environmental protection, namely existing transport corridors in the form adopted for High Speed 1 and to consider whether these provide better value in light of the environmental mitigation costs. Your petitioner notes the cost study in 2012 comparing the alternative routes selected the AONB without intrusive soil knowledge, maintaining it was £3m cheaper route to build, delivering a 6 minute time saving over the M40 where such knowledge was available. Since then, the project budget has risen £5bn, speed is no longer a critical factor and once soil information on the AONB becomes available, undoubtedly the costs will rise further. Given there is no shortage of regional infrastructure expenditure that would gratefully receive a share of a cancelled HS2 budget, your petitioner instead believes the alternative provision of additional rail capacity proposed by 51m or the Great Central Railway being both far cheaper and easier to deliver with far less environmental impact, would warrant re-examination and indeed if HS2 is still to be favoured, the motorway corridor routes must be re-examined in light of the escalated cost budget to mitigate the environment. Such savings could naturally be committed to regional infrastructure instead.
- 11 Your petitioner doubts that the current route through the Chilterns Area of Outstanding Natural Beauty (hereinafter referred to as "the AONB"), would have been selected had a Strategic Environmental Assessment been conducted, since the obvious difficulties now encountered in constructing a line through this area would have been made apparent. No comparison of the AONB route with all available alternatives has been attempted in the Environmental Statement, as is required by the Countryside and Rights of Way (CROW) Act 2000.

- 12 Your petitioner notes that HS2 Ltd has ignored and misquoted the duties imposed on Government to conserve and enhance the AONB. HS2 Ltd has employed the National Planning Policy Framework to seek to justify development in the AONB as in their view it is in the public interest. Firstly, this creates a problem for Parliament as the AONB, protected by Statute is also considered to be in the public interest. Secondly, the Government have no manifesto and therefore no mandate which approved destruction of the AONB for the public interest of HS2, indeed their manifesto stated a preference for the M40 route. With no mandate, your petitioner argues that they have no authority to decide what is in the public interest when comparing the protection of the AONB verses the need for HS2. Irrespective of this, HS2 Ltd have misquoted this framework in that the duty of Parliament is to ensure planning permission should be refused for major developments in these designated areas except in exceptional circumstances AND where it can be demonstrated they are in the public interest. While your petitioner may disagree with the view of HS2 Ltd that HS2 is in the public interest, it is evident that neither HS2 Ltd nor the Government can comply with the terms of NPPF 116 unless they are also able to demonstrate the exceptional circumstances. Such exceptional circumstances as set out by the clause are explicitly intended to be distinct from the public interest, otherwise the addition of AND would be unnecessary. Your petitioner wishes to bring to your attention that HS2 Ltd made no case for exceptional circumstances as indeed they misquoted NPPF 116 stating it as "exceptional circumstances, in the national interest".

General Concerns

- 13 As a resident of the AONB your petitioner has identified several specific grievances which are set out below. This list is by no means exhaustive, and due to the inadequacy of the Environmental Statement prepared by HS2 and the fact at the time of preparation they had only surveyed 48% of the route, it is inevitable that the construction of HS2 will disrupt the lives of residents in the AONB in ways which have not yet been considered. Your petitioner respectfully requests to be allowed to interrogate and present further petitions when this information comes to light following further survey work undertaken to inform the Environmental Statement that at the time of writing was unavailable to comment upon as HS2 Ltd had not undertaken nor presented the study work.

Preservation of the Chiltern AONB

- 13 Between Mantles Wood and Wendover the Proposed Route is on the surface for 10km and includes sections in shallow cuttings, on two 500m long viaducts, on embankments and in two cut and cover ("green") tunnels.
- 14 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. Your petitioner contends that building HS2 on the surface in this section will

- 14.1 permanently destroy the tranquillity of the area and the beauty of its landscapes, qualities that attract over 50 million visits a year - many from London residents,
- 14.2 have severe adverse effects on the social, environmental and economic cohesion of the communities in the area during and for a period after its construction,
- 14.3 permanently and seriously reduce the ability of residents to enjoy the natural benefits of the area in which they live.
- 15 It is estimated that the Landscape value of this area is of the order of £500million to £750million¹. The value of the damage to this national asset as a result of the construction of HS2 will be disproportionate and oppressive with specific bias towards the area of AONB in favour of the Growth of the Urban Cities, such growth also being contrary to the principle of the National Planning Policy Framework.
- 16 Your petitioner requests that the AONB be protected from the effects of this grave planning error by directing HS2 Ltd to ensure that the line passes through the AONB in a bored tunnel such as the **CRAG T2 Tunnel**², which has been accepted by HS2 Ltd in the Environmental Statement as both feasible and environmentally preferable. This would substantially mitigate the adverse effects complained of in this petition, and remove the need for the less effective remedies proposed below.

Water Supply and Flooding

- 17 Your petitioner is unable to determine whether his water supply is at risk due to the construction of the Chilterns tunnel, since the Environmental Statement does not rule out this possibility. Your petitioner would draw your attention to the possibility that a longer tunnel could be realigned to avoid the aquifer under the Lower Misbourne Valley, so reducing the risk of contamination to the water supply which serves this area and much of NW London. Furthermore, your petitioner is unable to determine if he is at risk of flooding since the upland attenuation of woodlands are being removed, the hydrology of the area has not been properly assessed, the Floods Minister has confirmed many of the Water Courses and the impacts on them have not been studied by HS2 Ltd, the displacement of the water traditionally held within the aquifer has not been assessed and the downstream impacts this may create, the placement of soil in sensitive water areas has not been assessed. The sum total being your petitioner has noted significant unassessed impacts that could lead to disproportionate impacts and indeed possible contravention of the water frameworks directive whereby local, natural aquifer fed potable water is taken from your petitioner to be replaced by water of artificially processed and therefore lower quality.

¹ "High Speed Rail in the Chilterns - Little Missenden to Wendover"
Report by Chiltern Conservation Board and Peter Brett Associates, Oct 2014

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

Construction Traffic

- 18 Your petitioner is gravely concerned about the inadequacy of measures proposed to mitigate the effects of construction traffic throughout the AONB, and in the Misbourne Valley in particular. Your petitioner regularly drives through the AONB to access employment, schools, shops and recreational facilities, and so will be directly impacted by traffic congestion throughout the area (and on the A413 in particular) for the duration of the construction works. Your petitioner regularly uses the network of Lanes in the AONB for recreation, and regards these as a characteristic feature of the area which should be protected in accordance with the CROW Act (2000). Many of these cross the proposed route and will be diverted or interrupted during construction. There is specific inconvenience, time and costs involved in such matters which are currently unassessed by HS2 Ltd and therefore unassessed impacts which as a consequence of their negligent action will lead to disproportionate impact on your petitioner.
- 19 As a resident of an area adjacent to the construction zone, your petitioner is also concerned that traffic seeking to avoid congestion will place a further burden on the roads in his community together with associated safety risks. Such roads are already operating at capacity, and so an increase in traffic will aggravate the impact on his freedom of movement.
- 20 Your petitioner observes that the greatest disruption to traffic will arise from the proposed works between the Mantles Wood portal, and the South Heath Cut and Cover tunnel and so requests that the **South Heath Chilterns Tunnel Extension**³ be implemented. This extends the full bored tunnel to Liberty Lane, with acknowledged environmental benefits and at no additional cost
- 21 Your petitioner also requests that the nominated undertaker be required to mitigate the remaining nuisances, by amending the Code of Construction Practice to strictly enforce the following measures –
- 21.1 Restricting HGV movements to the period 09:30 – 15:30 throughout the AONB, and prohibiting HGV Movements along school routes for 30 minutes before and after the start and end of the school day (during term time). For reasons of safety.
- 21.2 Constructing new roads to access the trace directly from the A413, and prohibiting the use of all existing minor roads in the AONB by construction traffic. For reasons of safety.
- 21.3 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.
- 21.4 Constructing such facilities as may be necessary to remove spoil from the AONB by rail, so avoiding the creation of the spoil dump at Hunts Green.

³ http://www.hs2amersham.org.uk/Resources/ES/Responses/REPA_final.pdf

- 21.5 Undertake proper and adequate assessment of any and all country lanes and local single track roads in the context of anticipated knock on effects of rat running traffic seeking to avoid construction induced congested areas of the road network.
- 21.6 To take steps to alleviate the impact and safety concerns generated in sub paragraph 5 by funding a traffic management system that controls and manages this traffic during peak periods to ensure safety of school children, village residents and non motorised road users.
- 21.7 Take steps to minimise or stop all construction traffic and additional works traffic from using the roads during school travel times when the local authority busses and taxies are transporting school children to and from the village to the various local schools.

Health and Welfare

- 22 Your petitioner is gravely concerned that the emergency services will be unable to provide timely support to his family and property due to road congestion during the construction period, and would remind the committee that the A413 carries ambulances to the local A&E department at Stoke Mandeville, as well as all HS2 traffic to and from the AONB.
- 23 Your petitioner requests that HS2 Ltd provide an air ambulance with crew on standby during working hours, to ensure that medical emergencies receive a prompt response; the committee might also consider that with 11 construction sites operating in the area, it would be criminally irresponsible not to be prepared for any industrial accidents.
- 24 Your petitioner is also extremely concerned that the emergency services will be unable to provide timely support to any incident or emergency at Hyde Heath Infants School, Rayners Care Home and other vulnerable members of his community

Environment

- 25 Your petitioner makes extensive use of the recreational facilities afforded by the AONB, and strongly objects to the following impacts of the project -
- 25.1 Destruction of woodland and in particular of Ancient Woodland. Ancient Woodland representing an irreplaceable resource (as stated by HS2 Ltd) when such resource clearly cannot be mitigated by bio-diversity principles due to their 400 year evolution.
- 25.2 Adverse effects on the ecology of the AONB, in particular on the rare (and unassessed) bat and owl populations.
- 25.3 The use of 'sustainable placement' in the AONB (at Hunts Green) which your petitioner regards as a contravention of the CROW (2000) Act. This large scale redesign of the landscape is incompatible with its status as an Area of Outstanding Natural Beauty and cannot conceivably meet the duty to conserve and enhance the natural beauty.

- 25.4 Continuing audible and visual intrusion of the railway in operation. No mitigation has been proposed to address the impact on walkers, cyclists or horse riders, and their needs are hardly mentioned in the ES (Vol2) reports covering the AONB (parts 7 to 10)
26. Your Petitioner does not believe that any amount of compensation can adequately replace the benefits that the natural ancient woodlands brings to residents and visitors and he believes the cost of a bored tunnel such as the CRAG T2 Tunnel through the AONB should be considered as an investment to the nation and future generations rather than an additional cost to the project
27. Your petitioner restates the recommendations of the Environmental Audit Committee who has clearly stated that compensation measures for environments such as irreplaceable Ancient Woodlands should only be implemented as a last resort and only if the adverse effects cannot be avoided or mitigated. The intent of this Parliamentary Committee is clear in that it proposes that the Bill is amended to provide the longest possible fully bored tunnel under the Chilterns Area of Outstanding Natural Beauty, which would remove the majority, if not all, of the construction traffic from the roads that will otherwise be affected by traffic congestion, and would prevent disruption to the aforementioned Public Rights of Way, thus preserving the peace and tranquillity of the area together with ancient woodland residing within the AONB. The creation of the Hunts Green Spoil Dump would also be avoided if spoil was removed from the area by rail (see 21 sub paragraph 4 above) and your petitioner respectfully requests that this is the minimum necessary as part of the remedy to comply with statute protecting the AONB, recommendations made by the Environmental Audit Committee of your house and to ensure the duty to conserve and enhance is maintained intact.
28. Your petitioner respectfully notes that in addition to the above, HS2 Ltd have sought within the Environmental Statement and the Hybrid Bill to attach environmental minimum requirements to observe and comply with. Your petitioner notes that such standards are under caveat of whether Hs2 Ltd (or any promoter) considers them to be "impracticable" or "unreasonable" and in doing so they can seek to avoid complying with their own standards. Such language must be removed as stated by the Environmental Audit Committee as there remains a very real risk the environment is squeezed as the cost of HS2 grows. The budget for mitigation must be agreed with Committee as appropriate, then ring fenced to ensure it is delivered in full.

29. Your petitioner wishes the Committee to confirm that higher design standards are naturally to be expected for any works undertaken in the AONB. In an Area of Outstanding Natural Beauty, it would be inconceivable to apply stock design to any feature of the railway as by its nature; the landscape design that currently exists is accepted as the highest standard of evolved natural beauty. Therefore, the design of any feature of the line within the AONB must also be of the highest standard that can be achieved. It therefore follows logically that the standard employed in areas out with the AONB should be regarded as the reasonable endeavour in design but the design within the AONB should be far higher and seek to achieve the very best endeavours of design. Again, in keeping with the statements made by the Environmental Audit Committee, when such designs have been achieved, their implementation should not be governed by whether they are "impracticable" or "reasonable" and the design costs associated with delivery of such features should be ring fenced and not squeezed when HS2 costs begin to rise.
30. For the foregoing and connected reasons your Petitioners respectfully submit that, unless the Bill is amended as proposed above (to remove the works noted in paragraph 7 from the schedule) so far affecting your Petitioners, should not be allowed to pass into law.
31. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and her rights and interests and for which no adequate provision is made to protect your Petitioner.

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 Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.

[Signature of Petitioner in person, or Agent for the Petitioner]

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IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2013-14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

PETITION OF Robert Hare

AGAINST, By Counsel, &c.

Name of Petitioner in Person: Robert Hare

Address:

Post code:

Telephone:

Mobile: