

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2013–14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

PETITION

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 SIMON LEWIS OBE

SHEWETH as follows:-

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and is now pending in your Honourable House entitled “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 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

4. 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.
5. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
6. 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.
7. The works proposed to be authorised by the Bill are specified in clauses 1 and 2 of and Schedules 1 and 2 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 and Schedules 2 and 3 to the Bill.

Regents Park Terrace

8. Regents Park Terrace ("the Terrace") is a Grade II listed residential terrace comprising 22 houses (consecutively numbered 1-22) constructed circa 1840-50. The Terrace and each of the houses within it is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.
9. The Terrace is located in NW1, in the London Borough of Camden. It (together with Gloucester Crescent and other neighbouring roads) is specifically within the Primrose Hill Conservation Area. This conservation area has been designated by Camden Council pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990 as being an area "*of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance*".

10. The Terrace is located approximately 75 metres to the east of the existing railway line leading into Euston. It is bounded to the west by Oval Road which itself runs almost parallel to the existing railway line. To the east is Gloucester Crescent.
11. Vehicular and pedestrian access to the Terrace is exclusively via a narrow private highway ("the Private Road"), which is in the common ownership and control of the residents of the Terrace. By an agreement amongst themselves, each of the houses forming the Terrace is permitted to park no more than 1 motor vehicle on the Private Road.
12. Given its narrowness, the Private Road is one-way only for vehicles, and has its entrance on Oval Road and its exit on Gloucester Crescent towards the south end. For the reasons set out further below, it is of vital and obvious importance to the residents of the Terrace that the entrance and exit to the Private Road remain unobstructed and available for their use, so that they can access their houses on foot and by car.
13. A long narrow private grassed area also belonging to the residents of the Terrace extends between the Private Road and Oval Road ("the Private Garden"). As well as providing an attractive area of greenery in front of the houses, the Private Garden is used as a play area for many of the children who live on the Terrace.
14. The Private Garden is noted in the Primrose Hill Conservation Area Statement as making a significant contribution to the green character of the conservation area, as well as being a designated London square under the London Squares Act. The Private Garden contains a line of very large trees, including London Plane and Robinia, all of which are the subject of tree preservation orders. Indeed, a total of 26 trees are the subject of tree preservation orders within the land comprising the Terrace.
15. Each property on the Terrace is four storeys high above ground, with single story basements, narrow lightwells and railings. External decorative features include rusticated stucco at ground and basement levels, stucco surrounds and brackets to windows, a continuous first floor balcony along the length of the Terrace, railings and prominent cornices.
16. Each of the freeholders of the properties on the Terrace is bound by a scheme made pursuant to the Leasehold Reform Act 1967. Amongst other things, this scheme

serves to preserve the overall character of the Terrace, by requiring a society registered on 25 May 1971 under the Industrial and Provident Societies Act 1965 (called Regents Park Terrace Association Limited) to maintain the Terrace in good order for example by repainting the houses of the Terrace every few years. Externally, the Terrace is remarkable in it is uniformly well-maintained and original appearance.

17. Similarly, the interiors of the properties on the Terrace are remarkably original. Many if not all of the houses contain original Georgian glass in the windows, and given their Grade II listed status no alterations are allowed to the frames or the glass (so, for example, none of the houses have, or would be permitted to install, double or triple glazing).
18. Many of the properties on the Terrace also have large and peaceful rear gardens, rare for inner London. The rears of these gardens back directly onto the rears of the gardens of the houses around Gloucester Crescent. Thus, there is no access to the Terrace from the rear of the properties.
19. Although the Terrace is within close proximity to the existing railway line into Euston, noise from the line as currently operated is partially shielded by the houses on Oval Road that lie between the railway and the Terrace, as well as by the mature trees in the Private Garden.
20. The Terrace is thus presently a beautiful and tranquil residential terrace of family homes: some of the residents have lived there for decades and many residents have children of various ages living at home.

Your Petitioner

21. Your Petitioner is an owner of one of the houses on Regents Park Terrace, namely Number 2. Your Petitioner is also Chairman of Regents Park Terrace Association Limited, and has in that capacity also filed a petition in materially the same terms as this one.
22. For the reasons amongst others hereinafter appearing, the rights, interests and property of your Petitioner are directly and specially affected by the provisions of the Bill, to which your Petitioner objects.

HS2's proposals affecting the Terrace

23. The Terrace lies directly on the boundary of two of the proposed sections of construction of the high speed line which are designated respectively by HS2 Ltd as "CFA2 – Camden Town and HS1 link" and "CFA3 – Primrose Hill to Kilburn (Camden)". It is also in very close proximity to the intersection of those sections with "CFA1 – Euston – Station and approach", around the junctions of Oval Road, Gloucester Avenue, Delancy Street and Parkway, and the proposed "Euston Portal" at the mouth of the proposed "Euston Tunnel". The effects on the Terrace and its residents are described below, so far as we are able to identify them at this stage.

(1) Road closures, traffic and congestion in and around the Oval Road and Parkway area

24. The "HS2 Environmental Statement (non-technical summary)" at page 55 acknowledges that "*During construction, six roads will be closed for up to 10 years. Disruption will be kept to a minimum by implementing a well-managed, phased construction, including the provision of alternative access. Changes to the local road network following completion of the works will involve the closure of nine roads. A number of utilities, such as gas, electricity and water mains and sewers, will need to be diverted.*"

25. Whatever the intentions of HS2 Ltd regarding keeping disruption to a minimum are, there can be no doubt that the effect on traffic and congestion within Camden as a whole will be devastating. Residents of the Terrace, in common with residents of other parts of Camden, need to travel to and from work, take their children to and from school, and need to conduct their day-to-day activities. Their ability to do so will obviously be seriously and adversely affected by these road closures and the increased congestion.

26. I am aware that our local council, Camden Council, is also proposing to petition your Honourable House regarding the Bill. While I have not seen the final form of its Petition, my understanding of Camden's repeatedly publicly stated position gives me confidence that I can also adopt its submissions regarding the effects of HS2 on the issue of general traffic and congestion issues in Camden and in particular the Parkway area.

27. However, for the additional reasons set out below, I believe that the Terrace is a unique and special case, and ask that these special requirements be taken into account as follows.
28. The location of the Terrace is such that it is surrounded by roads that are forecast to be significantly affected by a dramatic increase in traffic (both construction traffic and other traffic) – see CFA1 paragraph 12.4.26 and tables 22 and 23. This lists Parkway, Prince Albert Road, Oval Road and Regents Park Road as being so affected. Parkway in particular will suffer due to the fact that a number of major utilities run under it which will need to be rerouted. Also, the changes in traffic flow are expected to lead to significant congestion, with the Gloucester Avenue/ Oval Road junction in particular being forecast to be subject to a “major adverse effect” (paragraph 12.4.23 CFA2, and paragraph 12.4.25 CFA1).
29. The particular issue of concern for the Terrace is that there are effectively only two routes into and out of it: (1) to the south, via Oval Road and Parkway, and (2) to the east, via Oval Road and Jamestown Road or Inverness Street. If (as seems inevitable) either of these routes is closed to traffic (even temporarily) it is imperative that the other stays open, otherwise access to the Terrace will be impossible.

(2) Oval Road

30. Given its close proximity to the Terrace, any proposed planned use of Oval Road during the construction of HS2 is of immediate concern to your Petitioner.
31. Any construction related activity and/or construction traffic on Oval road will directly and specially affect the Terrace. In particular, it is feared that pollution (in the form of air, noise, vibration or other types) created on Oval Road will adversely affect the Terrace’s residents’ enjoyment of their homes and gardens, as well as damaging the trees in the Private Garden and undermining the Private Garden’s suitability as a play area for children.

The relief sought by your Petitioners

32. For the reasons given herein, your Petitioner respectfully asks that the proposed scheme be varied in the following respects and that appropriate amendments to the Bill be made accordingly and/or that suitable undertakings be given by HS2 Ltd:

- Vehicular access to the Terrace for residents of the Terrace and their guests via the Private Road should be guaranteed.
- Vehicular access to the Terrace for essential services via the Private Road should be guaranteed.
- Pedestrian access to Regents Park from the Terrace should be guaranteed.
- A reasonable and proportionate limit should be imposed on the hours during which any construction traffic can use Oval Road, and during which any construction-related works can be carried out.
- Adequate funds should be set aside and earmarked for the installation of appropriate measures to protect the Terrace and its residents against the detrimental effects of the construction project and the resulting railway.
- Removal of spoil should be required to be by rail and/or canal rather than road.
- Proper compensation should be payable to those whose private lives and property are and will be blighted by the construction of HS2, commensurate with the actual damage to their rights of quiet enjoyment of their property, and without imposition of irrelevant conditions such as means testing or hardship.

33. I address each of these issues separately below.

Guaranteed Access to the Terrace for residents

34. As explained above, it is imperative that the Terrace's residents and their guests retain their rights of access to the Terrace, and that these are not jeopardised either by the proposed works and closures in and around Parkway, or by any use of Oval Road for construction traffic/operations.

35. As I have said, the only entrance point to the Private Road is on Oval Road.

Therefore, if it is proposed that Oval Road be shut to through-traffic, an appropriate solution will need to be found that permits the residents of the Terrace continued rights of access so that they can continue with their day-to-day activities (e.g. travelling to and from work, and taking children to and from school). Guests and necessary visitors would also need to have continued access to the Terrace using the Private Road. An example would be a 'residents' access badge' that could be displayed in residents' cars that would permit them to access Oval Road (or any other necessary adjoining road) in the event it was proposed to be closed to general through-traffic.

36. Similarly, if the junction of Oval Road/Gloucester Avenue is to be closed, then it will be necessary to ensure that an alternative route into Oval Road is maintained. Again, this might be achieved through the selective provision of 'residents' access badges'.

37. In the event that Oval Road itself (and/or Gloucester Crescent) is used for construction traffic, then it will be necessary to ensure that the entry and exit points to the Private Road are not obstructed by construction vehicles, or are otherwise blocked.

Guaranteed Access to the Terrace for essential services

38. As well as the residents of the Terrace retaining access, it is also imperative that essential services retain access to the Private Road.

39. In particular, it is necessary to ensure that waste disposal and recycling vehicles are able to continue their collection services as they do at the moment, whereby they collect weekly from the doorsteps of the houses on the Terrace. Given the age of many of the residents on the Terrace, it would not be possible for them to have to deposit their rubbish and recycling materials at a distant location.

40. Furthermore, it is crucial that the emergency services (in particular, fire and ambulance services) are able (as they are at present) to attend to any of the properties on the Terrace without hindrance.

Guaranteed Access to Regents Park

41. Easy access by foot to Regents Park is of great amenity value to the residents of the Terrace, and the close proximity of the Terrace to the Regents Park is a significant contributor to the value and desirability of the properties on the Terrace.
42. During the construction phase, it will if anything be of more importance that residents of the Terrace are able to access the Regents Park: the park will likely provide a much needed area of tranquillity free from the noise, dust and vibration that will likely be experienced along the Terrace. Furthermore, the dog-owners on the Terrace will continue to need easy pedestrian access to the park on a daily basis as they do at present.
43. In the event that road closures to traffic around the Parkway/Oval Road/Gloucester Avenue are put in place, we request that nonetheless pedestrian access from the Terrace via Parkway to the Regents Park is maintained.

Oval Road working hours

44. Given its proximity to the Terrace as described above, any construction-related works and vehicle movements on Oval Road are likely to be leading sources of noise and air pollution affecting the Terrace.
45. As a minimum, it should be guaranteed that construction-related works and vehicle movements should be limited to the following hours: 8am-5pm Monday-Friday, 10am-1pm Saturday.

Removal of Spoil

46. HS2 Limited's proposals involve site access to the construction works by road in the vicinity of the junction of Parkway and Park Village East, and the removal of spoil to be by road. These proposals are likely to be responsible for a significant amount of the traffic chaos, road closures, and congestion that will be caused by the scheme as a whole. The particular and specific issues that will affect the Terrace in this regard have been set out above.

47. However, there are two existing transport routes that could be used to transport spoil as an alternative to carrying it by road: (1) the existing rail line into Euston, which will remain operational throughout the construction, and (2) the Regent's Canal to the west and north of Parkway. The rail line could also be used as the primary access to the Euston site, rather than the roads around Park Village East.
48. These are two relatively straightforward solutions that would mitigate the above-identified issues to a large extent.

Compensation

49. It is of significant concern that there is no proposal whatever for unconditional compensation for residents of the Terrace, as a consequence of their enjoyment of their homes being blighted in the manners described above, not to mention any financial loss they might suffer by way of diminution in value of their homes or via the cost to them of taking appropriate measures to remedy some of the likely sources of damage to the Terrace (in terms of noise, traffic and air pollution).
50. The then-Secretary of State for Transport made a commitment in December 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).
51. In addition to pure financial loss, fairness would argue that those whose lives are blighted by development and construction should be compensated.
52. The current proposals for compensation instead involve an illogical cut-off at the M25, with homes within the M25 being treated as “urban” and discriminated against on that arbitrary basis. Justification for this groundless distinction has been advanced by HS2 Ltd on the footing that in London, people's homes will be shielded by other streets or that construction works are a normal part of urban life. But the former point

is manifestly untrue in the case of construction works and construction traffic on Oval Road, and nothing about the scale of HS2's proposals is "normal".

53. Many homes outside the M25 will receive generous compensation for far less serious blight. The principle of compensation is already conceded and it is wrong for the Terrace to be excluded from it.
54. It is submitted that at least absent the provision of fair compensation, unconditionally and commensurate with the enormous level of construction blight which they will endure, the proposals for HS2's construction are a breach of the Terrace's residents' human rights, in particular the right to respect for their private lives and homes under Article 8 of the European Convention on Human Rights, and the right of every natural or legal person to the peaceful enjoyment of his possessions under Protocol 1.
55. Your Petitioner respectfully submits that the Bill should be amended or undertakings should be required forthwith so that HS2 Limited, the Secretary of State and/or the Nominated Undertaker make appropriate provision for compensation, without irrelevant preconditions based on means testing or hardship, for members of the Terrace and others facing similar levels of blight during or caused by construction of HS2.

Conclusions

56. For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above and/or suitable undertakings given, so far affecting your Petitioner, should not be allowed to pass into law.
57. Given the difficulty your Petitioner has had in understanding some of the clauses of the Bill and locating relevant information within the various environmental statements issued by HS2 Ltd, there might be issues or points affecting his interests that have not been addressed above but upon which your Petitioner reserves his right to make submissions in due course.
58. 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 he may be heard by 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 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.

Signed

Simon Lewis OBE

Date

21/5/14

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WEST MIDLANDS) BILL**

PETITION OF

SIMON LEWIS

Against the Bill - On Merits – By
Counsel &c

Simon Lewis OBE

[Redacted]

LC [Redacted]

[Redacted]

[Redacted]