

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 **JOANNA LOUISE MASON**

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 **JOANNA LOUISE MASON** (hereinafter referred to as 'the Petitioner'), **OWNER** of **THE POPLARS, COMMON LANE, CHURCH FENTON, TADCASTER, LS24 9QR** ('the Property') which is located in the vicinity of the proposed route of Phase 2 of HS2. Your petitioner is directly affected as clauses 51 and 52 give right of entry to your Petitioner's property and the principles and decisions reached in respect of Phase 1 will set standards for the Hybrid Bill for Phase 2, where it will be substantially more difficult to challenge such arrangements. Your Petitioner's rights interests and property are therefore injuriously affected by the Bill, to which your Petitioner objects for the reasons set out below.

8. Consultation and Engagement

8.1 Your petitioner is extremely concerned that much of what is contained in this Bill entitled Phase 1, will in fact relate equally to Phase 2, yet communities on Phase 2 have had no engagement and are therefore disenfranchised which is totally unacceptable. Decisions made in this Bill relating to noise, train speeds, construction practices and so much more will have huge implications for the petitioner and their community as well as many others along the proposed route of HS2. Yet, no engagement has taken place. No copies of the Bill were deposited with local authorities or libraries, absolutely no advertising, leaflets or literature of any kind has been distributed by HS2 Ltd or the D of T amongst those communities which could be affected by the contents of this Bill. There have been no community forums or any attempt to engage with affected communities on phase 2. Your petitioner feels that those living on Phase 2 of the route have not been awarded the same consideration as Phase 1 residents or any proper chance to engage with this process.

8.2 Therefore your Petitioner believes that this Bill should not be allowed to pass in to law as it is undemocratic and unfairly affects phase 2 residents who have been excluded from the engagement process. The Environmental Statement (ES) which forms part of this Bill has several volumes that relate wholly and specifically to Phase 2, yet no copies of these were placed for residents to consider. The comments from those who managed to see the documents, which were only a handful, were totally dismissed in the ES as 'relating to Phase 2 and therefore not relevant'. If they are not relevant why were they included? The petitioner feels that the injustice of these actions should mean that this Bill has not undergone due process and should not be allowed to pass into law.

8.3 If this Bill does pass into law your petitioner requests that as it is called the Bill for Phase 1 of HS2, a clause is added to assert that nothing included in it pertains to Phase 2. Failing this the Bill should go back to its first stages, be renamed more appropriately (your petitioner suggests 'High Speed Rail Phases 1 and 2 and Any More That We Want To Do in the Future') and passes through its stages with proper consultation and engagement with ALL those affected.

9. Access to land for surveying

9.1 Your Petitioner is concerned that rights of entry and authorisations to enter land for surveying purposes goes beyond the rights that are reasonably necessary. This permits entry

to any land anywhere in Great Britain for the purpose of any high speed railway which ministers might wish to propose in the future. It is outside the long title and scope of the Bill, not being a purpose connected with HS2.

9.2 Your Petitioner requests that Clauses 51 and 52 should be amended so that land can only be accessed with the landowner's and occupier's consent. Your petitioner feels that it would be a breach of their human rights for representatives of a rail construction company to be able to have ultimate access rights to their home and land. This right should be removed from the Bill

9.3 Compensation under Clause 52(5) is limited to damage to land or other property and does not include any other losses, such as the owner or occupier being deprived of the use of the land or incurring extra costs to manage the entry onto their land. If the rail construction company enforce their right to access your Petitioner's land, what would happen to the livestock? Who would pay for livery if my horses could not go in the field? Who would pay to rent alternative grazing? Who would transport the animals? The compensation provision is narrower than in other legislation (for example, section 292 of the Highways Act 1980) and if a right of entry is retained then it should be amended. The rights of those living near the construction should be preserved.

10. Compensation

10.1 Your Petitioner submits that the compensation provisions in relation to property that is not compulsory acquired and other matters would not be sufficient to compensate your Petitioner adequately for the loss and damage they incur as a result of the plan for Phase 2 of the high speed railway and associated development, as supported by the rights of entry for survey purposes and the increased possibility of these plans being realised if Phase 1 is approved. By applying a 120m limit the petitioner would receive no compensation even though my home has been substantially reduced in value (Red Book valuation and estate agents comments to be provided prior to this petition being heard). The petitioner has lost all their equity in their home, which represents our life-times savings, as a direct result of the HS2 scheme, yet the arrangements contained in this Bill offer no recompense what so ever.

10.2 Your Petitioner requests that the Bill should be amended to ensure your Petitioner and other persons who are injuriously affected and adversely affected by loss of value should be entitled to claim compensation for the full amount of loss incurred due to HS2.

11. Limits of Deviation

11.1 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.

11.2 Your Petitioner is concerned that these deviations could potentially make significant differences to the impacts of the construction and operation of Phase 2 of the high speed railway and associated development, for example by raising the track height to the detriment of the amenity of the landscape. This adds additional uncertainty increasing blight over a wider area, as even when the proposed route is set, people are nervous about changes that could be made. 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. 'Reasonable' is too broad a term and allows the construction companies too wide a range of deviation.

11.3 Your Petitioner requests that the provisions in the Hybrid Bill to allow deviation upwards and laterally should be deleted.

12.Noise

12.1 Your petitioner lives in the village of Church Fenton which has existing rail lines on two sides. The proposed route of HS2 would cut across forming a triangle and thereby trapping 120+ homes in a position of isolation, surrounded on all sides by railways. Your petitioner is concerned that HS2 Ltd have not set proper noise thresholds and ignored national policy in this area and the views of the World Health Organisation. Your petitioner submits that the noise limits set for Phase 1 will determine the design parameters for rolling stock and track design which will also be used in Phase 2. The noise thresholds being suggested would result in unbearable levels of noise for the petitioner and their neighbours.

12.2 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. This village is set in flat and open countryside, with no landscape features to break the travel of sound so the affects of groundbourne noise could be considerable.

12.3 Your petitioner therefore requests

12.4 HS2 Ltd is specifically disallowed from creating this kind of 'island of isolation' as it exacerbates noise nuisance as the total noise from the existing rail lines adds to the noise effects created, making a wholly unacceptable environment for the inhabitants.

12.5 HS2 Ltd be instructed to issue revised noise thresholds covering 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).

12.6 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.

12.6.1 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.

12.6.2 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.

12.6.3 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.

12.7 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.

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

13.Code of Construction Practice

13.1 Your petitioner is extremely concerned that any Code of Practice would be abandoned if the construction companies came under pressure due to time delays or cost overruns and that would have an extremely detrimental effect on their home and community. Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified and that this principle, if adopted, would be highly detrimental to communities located on Phase 2 of the proposed route of HS2. 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.

13.2 It is important to your petitioner that local people have powers to influence the workings of contractors, rather than have to put up with whatever practices the companies see fit. This Bill flies in the face of any pretence of 'localism' and therefore this petitioner requests that more control is given to Parish, and District councils to agree practices. 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.

13.3 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.

14.Carbon

14.1 Your Petitioner is concerned that nothing is included in the Bill about the generation of electricity for the high speed line and requests that specification should be included to ensure that low carbon electricity production is required. If the means of production are not specified, claims about carbon emissions are meaningless.

14.2 Your Petitioner is concerned about the impact of the high speed railway on the UK's carbon reduction commitments.

14.3 Your Petitioner requests that in accordance with the House of Commons Environmental Audit Committee Report dated 2 April 2014 there should be an emissions monitoring system to bring transparency to the likely effect of the high speed railway on overall transport emissions and a reduced maximum speed until electricity generation has been sufficiently decarbonised to make it a marginal issue.

15. Power to acquire land, rights in land, airspace and subsoil

15.1 Your petitioner believes that the land acquisition powers in this Bill go well beyond what is required to build a railway and represent a serious erosion of the protection offered to open space in this country. These rights would be seriously detrimental, not only to phase 2 communities, but also could have far reaching implications for large areas of the UK and would be slipped through in this Bill without most people realising what protections had been lost. Your petitioner believes this is not a proper way to introduce legislation and this power should be removed from the Bill.

15.2 Your Petitioner is also concerned by Clause 47 of the Bill (compulsory acquisition of land for regeneration and relocation) which is too broad in scope and is not limited by time or distance. Your Petitioner believes that this power should be removed.

16. Ecology

16.1 Your petitioner is concerned about the lack of detail in the ES about wildlife in the areas it plans to decimate. Your petitioner has been told by HS2 Ltd that assessments were made in a 'desk top' exercise and not by actual surveys. This is unacceptable.

16.2 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 is particularly concerned by the failure of the Environmental Statement for Phase 1 of HS2 to include any assessment of the in combination effects arising from the plans for Phase 2. Your petitioner is further concerned by the absence in the Hybrid Bill of any requirement for HS2 Ltd to ensure their activities result in No Net Loss of Biodiversity. Your petitioner highlights the number of sensitive sites (including Sites of Special Scientific Interest, County Wildlife Sites and Local Wildlife Sites) which would be impacted should Phase 2 of HS2 proceed.

16.3 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.

16.4 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.

17.Nominated undertaker

17.1 Your Petitioner has concerns in relation to the appointment of a nominated undertaker and the associated risk of them failing to fulfil their obligations failing, and the fettering of the Secretary of State's discretion by agreement with the nominated undertaker.

17.2 Your Petitioner requests that there should be a provision inserted into Clause 43 enabling enforcement against the Secretary of State in the event of the nominated undertaker failing to fulfil their obligations.

18.Environmental Statement

18.1 Your Petitioner is concerned by the absence of any specific provision to compel the nominated undertaker to implement mitigation measures identified in the Environmental Statement accompanying the Bill. Failure to include such provision would, your Petitioner submits, be contrary to the purposes of the EIA Directive and be highly damaging to communities located on Phase 2 of the route.

18.2 Your Petitioner submits that the Environmental Statement accompanying the Bill is deficient, for the reasons set out HS2AA's Environmental Statement Consultation response.

18.3 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.

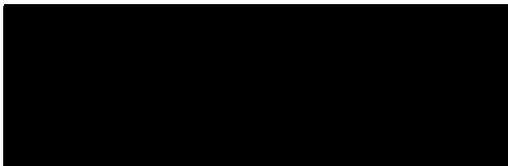
18.4 For the foregoing and connected reasons your Petitioner respectfully submits that, unless clauses of the Bill are removed or amended, then the Bill should not be allowed to pass into law.

18.5 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.

AND your Petitioners will ever pray, &c



SIGNED

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PETITION OF *JOANNA LOUISE MASON*

AGAINST, By counsel, &c

