

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-2014

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

PETITION

Against the Bill – 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 THE WILDLIFE TRUST FOR BIRMINGHAM
AND THE BLACK COUNTRY

SHEWETH as follows:-

1. A Bill (hereinafter called "the Bill") has been introduced into 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 petitioners are the Wildlife Trust for Birmingham and the Black Country, which was established in 1980, and their objects are for which the Trust is established are first, for the benefit of the public, to advance, promote and further the conservation maintenance study and protection of wildlife and its habitats; places of natural beauty; places of zoological, botanical, geographical, archaeological or scientific interest; features of landscape with geological, physiographical, or amenity value in particular, but not exclusively, in ways that further biodiversity. Second, to advance the education of the public in the principles and practice of sustainable development; and the principles and practice of biodiversity conservation in particular, but not exclusively, in urban areas. Your petitioners have 10,000 members and 350 volunteers, many of whom live and work in the area that will be affected by the construction and operation of the railway authorised by the Bill. Your petitioners own or manage 6 nature reserves, by far the largest being Park Hall Nature Reserve which will be directly affected by the construction and operation of the railway authorised by the Bill. Your petitioners work beyond their nature reserves to promote their objects throughout their region. Your petitioners are the ‘Accountable Body’ for the Birmingham and Black Country Nature Improvement Area, the Birmingham and Black Country area being granted this status by the government in 2012, one of only 12 given this status in England. Your petitioners are recognised by the five local authorities in this region as a consultee on planning applications, and other matters affecting the area in which those whom it represents live. Your petitioners have met with representatives of the promoters of the Bill on an occasional basis. Your petitioners are represented nationally by the Royal Society of Wildlife Trusts, who have been represented at the HS2 Ministerial NGO Roundtable which has met regularly during the preparation of the Bill.

8. Your Petitioners’ interests and property are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.

Park Hall Nature Reserve

9. Your petitioners see that the proposed route of HS2 crosses the Wildlife Trust’s Park Hall Nature Reserve near Castle Bromwich, as indicated on the Proposed Scheme Sheets CT-06-135b and CT-06-136, and the Construction Phase Sheets CT-05-135b and CT-05-136. The Scheme will take at least 80%, and at the worst 95%, of the Nature Reserve and have profound effects on the rest of the reserve and the public’s enjoyment of it. The majority of the negative environmental impacts identified for the sections of HS2 within the conurbation (CFAs 25 and 26) are borne by Park Hall Nature Reserve.

10. Your petitioners’ interest and activity at Park Hall Nature Reserve will suffer significant, permanent, severe adverse impact. The construction and provision of HS2 will destroy the best natural site along the route in Birmingham. Significant areas of Habitats of Principal Importance, including Ancient Woodland, will be partly destroyed by the route itself and partly destroyed by the proposal to re-route power cables. There will be a significant loss of floodplain grazing marsh and neutral grassland resulting from the construction of a viaduct, the re-alignment of the River Tame re-alignment and flood alleviation works, and sewer and fuel pipeline diversions. Access to the property will be denied for several years.

11. Your petitioners have found that the impacts on the Ancient Woodland are several, being

significant, permanent, severe and adverse. These include a significant 700m cutting, a 70m embankment, the re-routing of the power cables through the woodland at the top of the scarp giving rise to a 60m swathe of woodland clearance, the re-routing of the access track, and the removal of woodland to erect temporary fencing. Your petitioners find that despite these impacts, the area of woodland to be destroyed and why, and what woodland mitigation and compensation is proposed is not clear. It is widely accepted by ecologists that it is not possible to mitigate Ancient Woodland loss. Replacement tree planting cannot be described as mitigation for the loss of ancient woodland, even when the translocation of Ancient Woodland soils is carried out, as suggested. In addition, your petitioners also find that a significant area is to be lost or damaged by the re-routing of the power cables currently traversing the centre of the site. This proposal results in the needless destruction of ancient woodland and impacts on protected species such as bats and other species of conservation significance. Your petitioners find no mitigation for this impact and request that details of the total woodland impact are confirmed so that judgement can be made as to whether impacts can be avoided, minimised, and whether appropriate compensation can be achieved.

12. Your petitioners believe that, should the railway eventually be approved, a working corridor of 100m along the route can be achieved for construction purposes. Your petitioners request that the proposal to re-route the electricity cables be re-examined to consider putting the cables underground (as other services are being put underground), or re-routed to avoid the impact on the Ancient Woodland.

13. Your petitioners report that a great part of the ecological value of Park Hall Nature Reserve arises from the different pools, lakes, fen and other wetland habitats on the site. The route will be taken across the floodplain of the River Tame via a 780m long viaduct with a clearance height of 10m. There is a proposal to re-align the River Tame to the south of its current channel, coupled with the re-excavation of the floodplain for flood alleviation purposes. This will result in the loss of large areas of Habitats of Principal Importance, including neutral grassland (including ridge & furrow grassland) currently cattle-grazed, open water and swamp and marginal habitats, floodplain grazing marsh, and 17 small ponds and notable lengths of ditch habitat. It is apparent that the realignment of the River Tame will have a fundamental impact on the hydrology and ecology of these pools. The loss of this large habitat mosaic results in a significant adverse impact on this mosaic's conservation significance in habitat terms and for a range protected and other important species, including otter, bat species, water vole, great crested newt, grass snake, kingfisher, sand martin, and a range of aquatic and terrestrial invertebrates.

14. Your petitioners note that mitigation and compensation of aquatic and grassland habitats is largely focussed around the creation of a new channel for the River Tame, the flood alleviation area and its function, and the creation of similar wetland habitats to those being lost, particularly marshy grassland. Two ecological mitigation ponds (in neutral pasture of some conservation significance) and a single balancing pond (south of the re-aligned River Tame and therefore within the nature reserve) are proposed as mitigation for Park Hall Nature Reserve impacts. Your petitioners note that balancing ponds have dynamic water levels and are unlikely to be of equivalent ecological value to the existing water bodies on site. Your petitioners find no design proposals for these features other than a statement that they will mitigate for the losses incurred. There will be reductions in the area of neutral grassland and consequent quality, very limited mitigation for the loss of 17 ponds, no confirmation or detail of the mitigation proposals for marshy grassland or swamp habitats and no mitigation for hedgerow loss. Your petitioners note that there are no design proposals for these mitigations and the re-alignment of the River Tame and request that details are confirmed so that judgement can be made as to whether appropriate mitigation and compensation can be achieved.

15. Your petitioners note that the current access track to the nature reserve is to be re-routed to continue to provide access. The HS2 works have a significant negative effect on access to Park Hall Nature Reserve for both management purposes and also on potential public access. Your petitioners had plans in hand to purchase and improve the access track to the reserve, to improve and interpret access around the reserve to increase educational use of the reserve. Your petitioners confirm that these plans were curtailed when the proposals for HS2 became public. The implementation of these

plans had not been started because of an extended period during which access was limited in order to successfully curtail anti-social behaviour and unauthorised activity such as off-road motorcycling on the site. Your petitioners highlight the need to provide access that is managed while being secure against abuse or unauthorised vehicles.

16. Your petitioners view Park Hall Nature Reserve as a critical key gateway of the Nature Improvement Area, linking the rural Tame Valley to Birmingham along the Key Wildlife Corridors of the River Tame and the nearby Birmingham & Fazeley Canal. The exceptional qualities of habitats at Park Hall have greater contextual value because of their proximity and connections to the urban landscape. Your petitioners are of the view that these benefits must not be lost to the landscape and communities of Birmingham. Your petitioners are seriously concerned that the proposals will cause considerable net loss of habitats and accessible green space within the Nature Improvement Area, and in particular at Park Hall Nature Reserve. Your petitioners therefore request that the environmental impacts within the Birmingham and Black Country Nature Improvement Area be mitigated and compensated for within the Nature Improvement Area. Your petitioners believe this should be by the provision of new or improved habitat of equivalent value along the corridor of HS2 within the Nature Improvement Area in order to provide a green corridor that makes a significant contribution to a functioning ecological network, connecting the Tame Valley with the very heart of Birmingham. Your petitioners seek the provision of community access to as much of this land as is practical.

17. Your petitioners are concerned that the proposals within the Bill would prevent the use of the nature reserve at Park Hall as a nature reserve for the enjoyment of our members and the general public. Your petitioners believe that the proposals, which result in the new railway running across and alongside the nature reserve would result in such continuous and extensive disturbance to the area so as to prevent the quiet enjoyment of the nature reserve. Your petitioners are unaware of any proposals to compensate for the loss of the nature reserve as a resource. Your petitioners' interests and those of their members are directly affected by the proposals, and request that suitable compensation for the loss of the nature reserve as a resource for the local community, your petitioners' members and the general public is provided.

Other Nature Conservation Impacts in Birmingham

18. Your petitioners believe that further work needs to be undertaken to identify less damaging options for the construction and operation of HS2 in Birmingham and to take the opportunities that are apparent to bring about benefits to the ecological network in this part of Birmingham, in line with Nature Improvement Area objectives. Elsewhere in Birmingham along the proposed route, your petitioners believe that the baseline and evidence about the natural environment has been dismissed or downplayed and that the information baseline in the form of survey work, data collection, analysis, and evaluation is inadequate, inconsistent, and compromised overall. Your petitioners think this is the case for sites, habitats and species, and with the consequent implications for mitigation and compensation. Your petitioners have identified the following examples of this in the Final Environment Statement, including the clear potential for the disruption of water-based corridors during the construction of HS2, including the River Tame, the River Rea, and the considerable canal network, the large Washwood Heath Depot site has not been accessed for ecological survey, and the inadequacy of protected and key species survey work. Your petitioners request that further work is carried out to inform mitigation and compensation so that design proposals for these mitigations can be confirmed to judge whether appropriate mitigation and compensation can be achieved.

19. Your petitioners are seriously concerned that the proposals will cause a net loss of habitats and accessible green space within the Nature Improvement Area. Your petitioners believe that compensation through the creation or improvement of habitats outside Birmingham and beyond the Nature Improvement Area outside Birmingham may be a convenient option but would fundamentally undermine the objectives of the NIA and would also compromise your petitioners' capacity to achieve their aims. Your petitioners request that the Bill confirm that the environmental impacts within the Nature Improvement Area must be compensated for within the Nature Improvement Area by the provision of new or improved habitat of equivalent value along the corridor of HS2, connecting to and

strengthening ecological networks within the NIA. In accordance with their objects, your petitioners believe that the improvement of this green corridor will make a significant contribution to a functioning ecological network in the very heart of Birmingham and seek the provision of community access to as much of this land as is practical.

20. Your petitioners are of the view that the key ecological issue for HS2 along and adjoining the proposed route in Birmingham is achieving net gain for biodiversity through mitigation and compensation to deliver a strong and coherent ecological network through landscape-scale conservation as set out by Sir John Lawton (Defra, Making Space for Nature) by using the network of Key Wildlife Corridors, Wildlife Corridors, the open space matrix and Wildlife Action Areas as the framework for the inner city ecological network of Birmingham. Your petitioners believe the delivery of a strong and coherent ecological network through “net gain” landscape-scale conservation should be identified clearly as the main issue.

Strategic Ecological Objectives

21. Your petitioners consider that the Bill as drafted will not achieve the stated aim of “no net loss” of biodiversity. Your petitioners consider that the impacts the proposals would have on biodiversity assets are insufficiently mitigated and compensated for, leading to a significant overall reduction in biodiversity value resulting from the proposals. Furthermore, your petitioners are concerned that the stated aim should be to achieve a “net gain” of biodiversity, in line with paragraph 10 of the recommendations of the Environmental Audit Select Committee of your Honourable House in their recent report on HS2 and the Environment (2nd April 2014), through the works undertaken to mitigate and compensate for the impacts of the proposals on wildlife and through inclusion of enhancements for biodiversity. Your petitioners’ aims relating to the conservation of wildlife species and their habitats are directly affected by the impact, mitigation and compensation associated with the proposals. Your petitioners request that a clause is added to the Bill requiring a net gain for biodiversity to be secured in perpetuity through the works, mitigation and compensation and appropriate funding is allocated.

22. Your Petitioners share the concerns raised by the Environmental Audit Select Committee of your Honourable House in their recent report on HS2 and the Environment (2nd April 2014) relating to biodiversity offsetting as set out in paragraphs 13 to 17 in their recommendations. Your petitioners’ aims relating to the conservation of wildlife species and their habitats are directly affected by the approach taken to biodiversity offsetting to secure mitigation and compensation for ecological impacts by the scheme proponents. In order to meet those concerns, your petitioners request that provisions are made within the Bill for the Promoters to:

- (a) establish an adequately resourced, publically accountable and independent Biodiversity Group to measure and monitor local and HS2 line-wide biodiversity impacts, mitigation and compensation in accordance with the mitigation hierarchy described in the National Planning Policy Framework, in order to ensure a biodiversity net gain through the adherence to relevant British Standards, Government Standing Guidance, current CIEEM EcIA Guidelines and an independently set and government approved HS2 Biodiversity Offsetting Metric;
- (b) ensure that suitable independent experts are appointed to the Biodiversity Group to advise and approve any ecological impact assessment, the selection of mitigation and compensation measures and subsequent monitoring.
- (c) establish a ring fenced Biodiversity Compensation and Offsetting fund to ensure a biodiversity net gain (as defined within an independently and government approved HS2 Biodiversity Offsetting Metric that is grounded in Defra researched

habitat creation and restoration cost analyses) is implemented through the Biodiversity Group.

23. Your petitioners are concerned that the proposals do not make sufficient provision to ensure that mitigation and compensation measures for ecological impacts are fully secured as currently such measures are subject to considerations including those of cost. Your petitioners' objects relating to the conservation of wildlife species and their habitats are directly affected by the inadequacies of such measures. Your petitioners request that the Bill adequately secures mitigation and compensation measures both financially and in perpetuity.

24. Your petitioners are concerned that the information provided in the Environmental Statement which was subject to public consultation, a summary of which was presented to Parliament, was inaccurate and insufficient to allow a detailed consideration of impacts including cumulative and temporary impacts. Your petitioners consider that the ecological baseline information provided within the ES is incomplete, that the approach taken is neither "precautionary" nor consistent with the approaches set out in the *Scope and Methodology Report (SMR) Addendum Report: Ecological Field Survey Methods and Standards*, that the ES confuses the terms mitigation and compensation throughout, which on occasions are double-counted, and that the ES selectively reports from other available information. Your petitioners agree with the paragraphs 11 and 12 in the recommendations of the Environmental Audit Select Committee of your honourable House in their recent report on HS2 and the Environment (2nd April 2014) as they relate to these concerns. Your petitioners are of the view that these deficiencies render the ES unfit for the purpose for which it is intended. Your petitioners' objects relating to the conservation of wildlife species and their habitats are directly affected as a result of decisions made on the basis of that information. Your petitioners believe that further survey work in relation to habitats and species of principal importance and species protected by legislation along the route should be undertaken, with further public consultation. Your petitioners furthermore believe that the information arising from additional surveys should be considered by Parliament, or the select committee, and appropriate modifications to the proposals required.

25. Your petitioners consider that inadequate provision is made for monitoring of ecological mitigation during and post construction of the proposals within the Bill. Your petitioners' interests relating to the conservation of wildlife species and their habitats are affected. Your petitioners request that the Environmental Minimum Requirements that accompany the Bill are altered to ensure that monitoring of ecological mitigation during and after construction of the proposals is undertaken, and actions are taken to remedy any identified deficiencies.

26. For the foregoing and connected reasons your petitioners respectfully submit that, unless the Bill is amended as proposed variously above, and a clause added to the Bill requiring a net gain of biodiversity to be secured, and that the Bill is revised as a result of further ecological investigations, the Bill should not be allowed to pass into law.

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 such of the clauses and provisions of the Bill as affect 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.

Agent for The Wildlife Trust for Birmingham and the Black Country

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HIGH SPEED RAIL
(LONDON - WEST MIDLANDS)
BILL

PETITION OF THE WILDLIFE TRUST FOR BIRMINGHAM AND THE BLACK COUNTRY

AGAINST, By Counsel, &c.

Mr Nicholas Hammond
c/o B&BCWT
16 Greenfield Crescent
Edgbaston
Birmingham
B15 3AU