

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

Against – on merits – Praying to be heard in Person, &c.

To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled.

THE HUMBLE PETITION of

JANINE SACHS (MAIN PETITIONER) 47/D ETON AVENUE, LONDON, NW3 3EP, 097941877891

THERESA MALCOLM 45/2
ELIZABETH WEST, 45/7
MAIHO ZAIMOVIC, 45/8

LESTER CHEESEMAN, 47/B
NOEL GANESAN, 47/E
TONY HAWKINS, 47/H
BENJAMIN NANI, 47/G
BERNIE JAMES, 47/J

ELIAN GRAY, 49/F
HAZEL HALLAM, 49/H

MAEVE TORNERO, 53/C
JO WEBSTER, 53/D

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 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 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.

7. **WHO YOUR PETITIONERS ARE AND WHERE THEY LIVE**

- i. Your Petitioners are an informal group of Genesis Housing Association residents living at No's 45, 47, 49 and 53 Eton Avenue, London, NW3 3EP – in the Belsize Conservation Area. We are a mixture of ethnicities, age ranges, single tenants and families. Many of us are 'vulnerable', having to cope with various health conditions such as asthma, arthritis, chronic insomnia, arterial fibrillation – (with concomitant breathing difficulties), M.E., brain injury – (with mobility impairment requiring wheelchair use). Many of us have lived here for 39 years, some now retired. No 45 is a listed property.
Our homes have mostly poorly fitting single glazed windows inadequate to insulate from noise and excessive pollution. It is unlikely our HA landlord could afford to install the costly secondary glazing replacements to meet strict conservation requirements.
 - ii. The tracks of the proposed HS2 Euston Tunnel are planned to be routed underground very close to your petitioners' houses – such that the Safeguarding zone will be at the edge of the bottom of our gardens. Your Petitioners' properties are located within approximately 20 metres of the Safeguarding zone therefore be located immediately adjacent to construction.
 - iii. Your Petitioners' properties are also very near to roads which will be used by construction traffic during the construction of the Scheme, namely Adelaide Road and England's Lane. Your Petitioners understand that HS2 has published a Code of Construction Practice which would permit them to work at night and during weekends, as well as overseeing hundreds of lorry movements every day in our area.
8. Your Petitioners' rights, interests and property are injuriously affected by the Bill, to which your Petitioners object for reasons amongst others, hereinafter appearing.

9. **EFFECTS OF INCREASED TRAFFIC FOR WASTE REMOVAL - on air quality, noise, local travel, health and safety.**

- i. Your Petitioners are concerned that the HS2 estimate of five years of increased traffic -being predominantly HGV's, will cause excessive noise, dust, air pollution and untold disruption to local traffic, not only in Adelaide but in all neighbouring streets. Your Petitioners are concerned that all of this, along with the noise of the 24/7 hour working will lead to sleep deprivation and other health issues – exacerbating pre-existing health conditions, and will impact significantly upon the quiet enjoyment of the Properties and the neighbourhood of Eton Avenue.
- ii. Your Petitioners are concerned that the impact on local communities of the amount of waste to be excavated and removed from the construction of the high speed railway has been underestimated and the environmental impacts of removal and disposal of such waste has been needlessly worsened because of the primacy (in UK and EU law) of the requirement to seek to avoid disposal of waste and comply with the principles of the waste hierarchy has been ignored by HS2 Ltd.
- iii. Your Petitioners are concerned that Eton Avenue itself will inevitably take up some of the brunt of road closures during the 4-6 months of the Adelaide Vent and during the five (or more) years of continuing construction, and become a 'rat run' for all other traffic overflow and thus cause untold mayhem and adding to the already existent heavy congestion from the twice-daily four School runs in Eton Avenue – making it unsafe for school pupils and extremely unpleasant for everyone who lives here and uses the street.
- iv. Your Petitioners are concerned about the potential adverse impacts on air quality as a result of the construction and operation of the high speed railway line and associated development
- v. Many of your Petitioners currently choose to shop in the less polluted England's Lane (compared to Finchley Road) and enjoy the community there. They are now very concerned that they will no longer be able to do so with the proposed diversion of traffic from Adelaide Road and its designated use for construction vehicles and spoil removal - due to resulting increase in air pollution, and likely closure of shops as a result. In this respect the ES fails to properly consider that whilst England's Lane is both highly residential, it is also home to 6 cafés with outdoor seating. There are questions as to how these and other businesses will survive during these diversions and so continue to serve Eton Avenue residents.
- vi. Your petitioners are concerned that the air quality will be badly affected by the gridlocked traffic, extra buses and the 100+ HGVs each day. The particulates produced by diesel exhaust have been identified as being extremely damaging to cardio-vascular systems.
- vii. Your Petitioners question how it will be considered 'safe' to shop in England's lane or to walk or bus to and from frequent GP appointments via England's Lane and Adelaide Road?
- viii. Emergency services will inevitably be delayed by this closure and will add to the congestion, potentially putting your Petitioners lives at risk.
- ix. The 31 bus uses Adelaide Road in both directions so would be diverted to England's Lane as well under the current plans - which means doubling the number of buses using the road. At peak times England's Lane can't cope with the volume of traffic it has at present. Outside of peak times all it takes is for a Tesco delivery lorry to meet a bus or other large vehicle and things grind to a halt. The ES shows no awareness of the junction of England's Lane and Primrose Hill Road, which also connects to Eton Avenue (a continuation of England's Lane) and Belsize Park Gardens.
- x. The ES proposals to remove parking on one side of England's Lane in an attempt to mitigate congestion will do little to ease the problem, and will only make parking for shoppers there even more difficult than it already is, especially for your Petitioners who need to use their cars for shopping there, due to mobility problems.

- xi. In addition, during the 4- 6 months closure to Adelaide Road and it's five years or more of construction and heavy HVG use, there would be considerable delays to your Petitioners' local bus services, in particular the 31 and C11, making traveling by those routes close to untenable.
- xii. Some of your Petitioners would also be very concerned for the safety of their cats, which they would not have chosen to have but for Eton Avenue being a quiet street.
- xiii. In short, a diversion to England's Lane for six months or so, as well as the proposed on-going heavy HGV use of Adelaide Road, would cause utter chaos and misery for your Petitioners for 5 years or more.

10. **EFFECTS OF NOISE AND VIBRATION - from underground construction and operation of HS2 - on health and safety.**

- i. Your Petitioners are concerned about the effects of noise arising from the construction of the high speed railway and associated development.
- ii. Your Petitioners are concerned there appears to be no mechanism in the Bill to deliver a properly noise mitigated railway.
- iii. Your Petitioners are 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.
- iv. Your Petitioners are concerned that that no comprehensive impact assessment has been made in respect to the ground borne vibration from the high-speed trains, predicted to run at every one and a half minutes. There are questions as to what extent vibrations may be felt consciously or unconsciously in and around your Petitioners Properties and what long-term accumulative adverse effects high-speed vibration can have on health and well-being.
- v. Your Petitioners are concerned that the fundamental calculations needed for forecasting noise impacts, known as the Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL) have not been correctly identified and were set too high in the Environmental Statement, leading to material underestimation of the adverse noise and significant adverse noise impacts likely to arise from the high speed railway.
- vi. Your Petitioners are concerned that noise thresholds used in the ES are inappropriate and have not been justified by reference to relevant British Standards or World Health Organization guidelines. In particular levels adopted in the ES in respect of ground borne noise do not represent thresholds derived by reference to adverse effects that can be observed; rather they are levels that relate to likelihood of complaint. It follows that the appraisal in the ES of ground borne vibration is entirely flawed. Your Petitioners submit that the noise thresholds adopted by HS2 in respect of ground noise does not reflect recent practice in experience. Your petitioners are also concerned that the prediction methodology detailed in the Environmental Statement is not sufficiently robust.
- vii. Your Petitioners are also concerned about the stability of their Properties in relation to the close proximity of deep tunnelling, because one of your Petitioners has recently been refused contents insurance by one insurer who believed this area to be prone to subsidence.

- viii. Your Petitioners are further concerned that the development planned to go within the Safeguarding area just below the garden of 53 Eton, along with an awaiting development planned for the garden at no 51, might both clash with high speed rail construction and have a cumulative effect of leading to localised flooding.
- ix. In addition there is concern amongst your Petitioners that the development proposed for 100 Avenue Road is entirely overlapping the Safeguarding area, with the tracks right up against the proposed building, raising serious questions of structural safety around Swiss Cottage Library, Leisure Centre and play area.
- x. Your Petitioners are also concerned that the construction periods for the high speed rail and the 100 Avenue development will coincide, placing even greater burden on Eton Avenue with the 100 Avenue Road HGV's and construction site to go at the west end of Eton Avenue – by Swiss Cottage tube.
- xi. 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.
- xii. Some of your Petitioners are seriously considering moving – after 39 years of enjoying the peaceful conservation area of Belsize, if the high speed rail go ahead as proposed. Because to stay would certainly exacerbate your Petitioners existing health problems, yet to move would have the same effect, and would be virtually unaffordable for many in any case. Your Petitioners are being placed in an impossible situation.

11. CODE OF CONSTRUCTION PRACTICE

- i. Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified. The proposed Code of Construction Practice has no statutory basis-it is not in the Bill. Assessment in the environmental statement is made on the assumption that the Code of Construction Practice and the strategies will be full effective, however the Code of Construction Practice has no legal status. 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
- ii. 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.

12. YOUR PETITIONERS REQUEST THAT –

- i. Structural surveys are to be carried out on your Petitioners Properties, both in advance of tunnelling works and post construction and HS2 Ltd take full responsibility for all remediation works in a timely manner.
- ii. **With respect to noise and vibration**

- a) HS2 Ltd be instructed to issue revised noise thresholds covering the LOAEL and SOAEL for 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).
- b) 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.
- c) 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.
- d) A binding requirement included in the Bill for noise and vibration monitoring with obligations on HS2 Ltd to introduce additional mitigation measures, including reduction in train speeds, in the event forecast noise levels are exceeded.
- e) 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.

iii. **With respect to waste removal**

- a) Waste removal be transported by rail using a double-deck station at Euston which would incorporate a platform specifically to remove construction spoil by rail, greatly reducing traffic and pollution impacts. There are sidings located at the Adelaide vent shaft, which could be used for access.
- b) The entire materials balance and movement from the high speed railway be re-presented in a consistent and more readily accessible form.
- c) Clear plans be laid out to show how spoil removal would be achieved by rail, so as not to use Adelaide road, or any other neighbouring roads for transport for waste/spoil removal.
- d) The Bill be amended:
- e) The Secretary of State and the nominated undertaker be required to comply with the requirements of the Waste Framework Directive and review its decisions on treatment of waste to ensure compliance with the waste hierarchy as detailed in that Directive. Such review should include publishing details of the "integrated design approach" to waste management and subject to consultation to enable effective public participation on this issue
- f) The Secretary of State, the nominated undertaker and the relevant local authority be required to agree arrangements for monitoring and enforcement of mitigation measures designed to safeguard local communities near the construction sites for the high speed railway and associated development from adverse effects created by waste. Such plans to be overseen by an independent body picked by Parliament.

iv. **With respect to 'Code of Construction Practice'**

- a) The standards set out in the environmental statement and the Code of Construction Practice is of "reasonableness" and "reasonable endeavours".

This should be replaced by a higher standard, i.e. "best practical means" which should be on the face of the Bill.

- b) 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.

v. **All the above concerns and requests be fully and properly addressed**

- with all impact assessments and mitigation studies carried out to required standards, if not, then commencement of construction of high speed rail should commence at Old Oak Common, until such time that all conditions of satisfaction for North West London are met.

- 13. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners

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 Themselves [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.

Signed:

JANINE SACHS.....

THERESA MALCOLM.....

ELIZABETH WEST.....

MAIHO ZAIMOVIC.....

LESTER CHEESEMAN.....

NOEL GANESAN.....

TONY HAWKINS.....

BENJAMIN NANI.....

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HIGH SPEED RAIL
(LONDON-WEST MIDLANDS)
BILL

PETITION OF JANINE SACHS (MAIN PETITIONER) @

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AGAINST, By Counsel, &c.