

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON – 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 Mr John and Mrs Pamela Porter

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. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway. 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. 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

- 4 Your Petitioners are the owners of property in the small rural hamlet of Stockwell Heath in Staffordshire which consists of a handful of homes nestled around a village pond. Their property, which includes stables and paddock, has been a family home for more than 30 years. Your Petitioners are part of a close rural community who have all chosen a quiet place to either bring up their families or to retire to. Each one of the hamlet's residents has invested all their life's work in order to enjoy a tranquil way of life that they value greatly. The sale of your petitioner's mortgage-free property and a move to a smaller one has been a large part of their long-term plans for retirement. Such plans included a conversion of a barn on their existing property to a retirement dwelling. All of which the Bill may directly and specially affect.
- 5 Your Petitioners and their rights, interests and property are injuriously affected by the Bill (their rights and interests directly as they live in the area which will be affected by the construction of HS2 Phase 1 and their property by implication, since many aspects of the HS2 Phase 1 bill will directly affect the provisions for HS2 Phase 2) to which your Petitioners object for reasons amongst others, hereinafter appearing. These rights are threatened without their consent and consequently they must be entitled to do everything they can to protect and preserve those interests.
- 6 Your Petitioners dwell in the region of HS2 Phase 1 so they and their **rights and interests** will be directly and specially affected by the Bill in the following ways.

Upgrade of West Coast Main Line (WCML)

The provision in the Bill to upgrade the WCML has resulted in Compulsory Purchase Orders having been served on properties close to the track within your petitioner's parish. Living in close proximity to the line daily journeys will be interrupted by construction traffic and works.

Dwelling within the same District Council subject to HS2 Phase 1 construction

The Bill provides for the construction of the spur at Handsacre which lies within your Petitioners' District Council thus going about their daily business and using numerous local amenities in the City of Lichfield will mean that your petitioner's daily lives will be adversely affected.

Lorry movements in the locality

The required aggregates will be transported to HS2 Phase 1 construction sites directly through your Petitioners' locality from the north and waste transported away from the construction sites will require a huge number of lorry movements throughout the region leading to increased noise and traffic congestion.

- 7 There are many aspects of the HS2 Phase 1 Hybrid Bill which inevitably and directly affect the proposals for Phase 2 thus injuriously affecting your Petitioners and their **rights, interests and property**.

Route Consultation

Your Petitioners are concerned that there was no provision in the Bill for consultation with local people who were to be directly and specially affected by the route of HS2 before the route was announced publicly. The Bill should include such provision in order to limit the impact on the health and well being of those affected and to encourage public engagement rather than objection.

Compensation

Your Petitioners submit that the compensation provisions in relation to property that is not compulsory acquired is not sufficient to compensate your Petitioners adequately for the loss and damage they may incur as a result of construction and operation of the high speed railway and associated development.

Your Petitioners are concerned that the compensation scheme is unfair. The idea that one should have to show exceptional hardship in order to qualify for compensation for a blighted property is unreasonable. Property owners should be able to sell their property at its "un-blighted" market value simply because they want or need to and not because they are able to prove that they would suffer "exceptional hardship".

Your petitioner requests that the Bill should be amended to ensure your Petitioners and other persons outside the safeguarding area who are injuriously affected and adversely affected by loss of value should be entitled to claim compensation.

Construction

Code of Construction Practice

Your Petitioners are concerned that the only protection in the Hybrid Bill on how HS2 will be constructed is the Code of Construction Practice. However it has no legal force and can be ignored by HS2 Ltd.

Your Petitioners submit 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.

Your Petitioners submit that the standards set out in the environmental statement and the Code of Construction Practice of "reasonableness" and "reasonable endeavours" are inadequate and should be replaced by a higher

standard, i.e. "best practical means" and 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.

Effect of Construction and Waste

Your Petitioners are concerned that the lorry movements to bring in aggregates and remove waste will have a seriously injurious effect on their residential amenities and daily lives.

Your Petitioners are concerned that the impact on local communities of the estimated millions of tons of top soil to be removed from the construction of the high speed railway has been underestimated. 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. The requirement to comply with the principles of the waste hierarchy has been ignored by HS2 Ltd.

Your Petitioners are concerned that the forecasts provided for each Community Forum Area for amounts of waste to be excavated and removed from that area appear to be contradictory and take insufficient account of local authority planning policies.

Your Petitioners request that: HS2 Ltd 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 be subject to consultation to enable effective public participation on this issue.

Limits of Deviation

Your Petitioners are 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.

Your Petitioners are concerned that if the precedent is set in this Bill then similar deviation on Phase 2 would allow an embankment directly in front of their property currently set at 11.3 metres could be raised to 14.3 metres compounding the visual impact significantly with further impacts on the construction and operation of the high speed railway and associated development, to the detriment of the amenity of the landscape. 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.

Your Petitioners request that the provisions in the Hybrid Bill to allow deviation should be deleted.

Water Quality

Your Petitioners are concerned that the Bill seeks to undermine long standing and important legal safeguards concerning the safety of drinking water and about the danger of water pollution arising from the construction and operation of the proposed high speed railway and associated development and the run-off into surrounding watercourses, as well as the expected flow rates or impact on surrounding transport links. Your Petitioners are particularly concerned about the ancient village pond in the centre of their hamlet, fed and drained by local water courses and whose delicate ecology may not survive the resulting pollution.

Your Petitioners request that throughout construction there should be sampling of surface water at different locations surrounding each construction site and these samples should be independently tested at a United Kingdom accreditation service laboratory. The results from the sampling should be shared with the Environment Agency and the relevant local authority. The results should be benchmarked against accepted water quality levels.

Your Petitioners request that Clause 31 and schedule 20, which override key legal safeguards that protect public water supplies be deleted from the Hybrid Bill

Speed of HS2 and Noise

Your Petitioners aver that the speed set on Phase 1 will dictate the speed for Phase 2. Your Petitioners note that currently the Hybrid Bill provides few protections from noise, either during construction or operation of HS2. HS2 Ltd will not even commit to complying with World Health Organisation guidelines on noise. There should be proper safeguards to ensure communities are protected from noise, including requiring HS2 Ltd to slow down the trains should noise thresholds be breached.

Your Petitioners have concerns with regards to matters of noise and vibration caused by the construction and operation of the high speed railway. Your Petitioners are concerned as there appears to be no mechanism in the Bill to deliver a properly noise mitigated railway.

Your Petitioners therefore request

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.

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.

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.

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.

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 Petitioners are also concerned that Schedule 25 would provide a defence to statutory nuisance for the nominated undertaker.

Your Petitioners request that Clause 35 and schedule 25 are deleted from the Bill.

The Route and Ecology

The adopted route for Phase 1 of HS2 will have unavoidable impacts on the proposed route for Phase 2 on which your Petitioners live. The route for Phase 1 was deemed to follow existing transport corridors i.e. the M40. The Petitioners fail to understand why then the final stage of Phase 1 deliberately spurs back out of Birmingham from where, instead of the proposed route, it could have continued along an existing transport corridor i.e. the M6. Following the spur out of Birmingham it continues instead through the heart of rural Staffordshire swallowing up huge swathes of agricultural land and greenbelt. This specifically affects their hamlet of Stockwell Heath and the local and national amenity of the Staffordshire Way which runs through the heart of Stockwell Heath. The local pond which is an area of natural beauty attracts many walkers and visitors to appreciate the variety of wildlife – currently baby Canada Geese, moorhens, coots, mallards and a visiting heron.

Your Petitioners are concerned about the adverse impacts of the construction and operation of the high speed railway and associated development on fauna and flora. Your Petitioners submit that there should be binding mitigation measures to reduce the adverse impacts on ecology including but not limited to avoiding ancient woodland, migration routes for wildlife across construction sites and the operational high speed railway and associated development, and compensatory measures to offset habitat loss and other damage to species.

Your Petitioners request 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.

Your Petitioners request that other recommendations in the House of Commons Environmental Audit Committee Report dated 2 April 2014 are also followed including but not limited to 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.

- 8 In light of the above, the Petitioners 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.
- 9 For the foregoing and connected reasons your Petitioners respectfully submit that, unless clauses of the Bill, so far affecting your Petitioners, are removed or amended then the Bill should not be allowed to pass into law.
- 10 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, (including their Human Rights) interests and property and for which no adequate provision is made to protect your Petitioners and other clauses and provisions necessary for their protection and benefit are omitted there from.

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 Petitioners 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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AGAINST, By Counsel, &c.

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