

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

Against – on Merits – [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 Hints and Area Action Group.

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, Mr Chancellor of the Exchequer, and Secretary Theresa May, Secretary Vince Cable, Secretary Iain Duncan Smith, Secretary Eric Pickles, Secretary Owen Paterson, Secretary Edward Davey, and Mr Robert Goodwill.
- 3) The Bill clauses 1 to 36 set out the Bill's objectives in relation to the construction and operation of the railway transport system mentioned in paragraph 1 above. They include provision for compulsory acquisition, planning permission, heritage issues, trees and noise. Clauses 37 to 42 of the Bill establish a regulatory regime for the railway transport system, clauses 43 to 46 of the Bill deal with nominated and statutory undertakers and other Phase One function-holders, clauses 47 to 48 provide provisions for Regeneration and reinstatement, clauses 49 to 52 address Further high speed rail works, including powers for the Scottish Ministers, clauses 53 to 56 concern matters pertaining to The Crown, clauses 57 and 58 provide for administration of deposited plans and sections, clauses 59 to 61 contain miscellaneous and general provisions, and the remaining clauses 62 to 65 contain interpretation of words and terms used in the Bill, financial provisions, commencement day and short title of the Bill.

- 4) The works proposed to be authorised by the Bill are specified in Schedule 1 to the Bill and the scheduled works are defined in the Bill as the works specified in Schedule 1 to the Bill which are works authorised to be constructed by the nominated undertaker (defined in the Bill and hereinafter referred to as "the nominated undertaker"). Your petitioners are the Hints and Area Action Group (hereinafter referred to as the Petitioners). The Bill would authorise the construction and operation of the railway system and its associated development through Hints Area and your petitioners object to the part of the works outlined below.
- 5) Your petitioner are Hints and Area Action Group (Members of CFA21) on behalf of the residents and businesses of Hints and Canwell who are adversely affected by HS2.
- 6) Your petitioners would like to show that the vibrant community of the village of Hints has been decimated by the decision to route the railway through the village and the inherent blight that has been caused to the housing market within the area. The demographics of the village are of a community where the average age is over 60 years. The facilities within the Hints area are sparse with no local shop or public transport. The housing market has failed in this area with only one house selling over the 4 year period since the announcement of HS2 despite there currently being 8 for sale. Some properties that were originally for sale have been removed from the market due to the stress of no viewings. The ability of the aging population to downsize and utilize the assets of the property for retirement have been lost, with no prospect of the market returning until the railway has been built and shown to be acceptable. This has removed the ability of these residents to plan for the future.
- 7) Your petitioners would like to state that there have been 6 properties bought under the EHS scheme within the village and these properties are put on the market to rent. By having a transient population of tenants renting the properties, the heart of the community is being fragmented and even though some tenants are willing participants in the social aspects of village life the long term commitment to the future of the village cannot be guaranteed. Many of the properties that have been purchased under the EHS scheme are large properties where the residents were active village participants in the annual open gardens. This event used to be held every year as an Open Gardens Weekend on the spring bank holiday. It was visited by up to 1500 visitors making about £7000 a year and was the major money raiser for St Bartholomew's Church and the Village Hall. Due to a lack of gardens caused by them now being rental properties this has not been held for the last two years with the consequence that there is a possibility that the church may close due to lack of funds.
- 8) Your petitioners would like HS2 to look at any options available to give rural populations an ability to keep the housing market buoyant in villages hit by HS2 blight. HS2 should look again at the Property Bond as a means of giving stability to house valuations as it is unfair that thousands of people are currently

trapped in properties, that nobody will commit to buying, due to the uncertainty of the effects of construction and operation of HS2.

- 9) Your petitioners object to the part of the works outlined below:
- 10) Your petitioners object to the use of an open cutting traversing the saddle ridge between Ancient Woodlands Round Hill and Rookery Hill Schedule 1 Work No. 3/48 to the crossing of Rookery Lane Schedule 1 Work No. 3/68. The cutting will not provide mitigation against visual blight, noise blight and will destroy the landscape feature that is an important amenity for the area.
- 11) Your petitioners object to the use of an under bridge for the crossing of Rookery Lane Schedule 1 Work No. 3/68. The height restrictions imposed by the clearance of 2.7metres prevent access for farm vehicles and its use by mounted horse riders.
- 12) Your petitioners object in principle to the decision to construct a railway between London and Handsacre, and the details of the works proposed to be carried out as referred to above. Your Petitioners offer alternative constructions to achieve the decision.
- 13) Your petitioners would like to convey that the area included within the limits of Hints and the surrounding area contains a landscape within the green belt and is one of only two areas within Staffordshire that falls within the County's policy objective of Landscape Maintenance. In areas thus classified substantial emphasis is sought to ensure that ANY development blends unobtrusively into the landscape and does not lead to the loss of characteristic features. The village of Hints has also had "Conservation Area" status since 17th October 1989 that lists three significant reasons for its status:
 - (a) It includes the grounds of Hints Hall including the system of water gardens, ponds and cascades.
 - (b) The village has a picturesque combination of residential and agricultural buildings situated on the wooded slopes of a valley.
 - (c) The village is set within rolling Staffordshire countryside, there are views of the open countryside from within the conservation area and these are a significant part of its setting.One of the main features of this landscape is the Bourne Valley and Hints Ridge with the wooded hill tops in a pastoral landscape.
- 14) Your petitioners would like to quote one of HS2's personnel , Mr. Mark Bailey HS2 Senior Environment Manager, when on a site visit to the area of Hints for a Bilateral meeting for the CFA21 area on the 22nd August 2012, a walk took place across the escarpment between the two areas of Ancient Woodland in his describing Hints as ... "This must be the most beautiful area along the whole route".
- 15) Your petitioner would like to show that the Mitigation proposed for the cutting through the Hints Ridge between Round Hill ancient woodland and Rookery Wood ancient woodland of earth bunding embankments and plantation of trees will not fully screen the visual impact of the railway from the majority of

properties in the village of Hints and residents of Brockhurst Lane and Bangley Lane due to the height of these properties in relation to the railway. The planting of trees in place of the existing grazing pasture hills will destroy the current landscape feature of the hills, with the ancient woods on top, within the grassy slopes of the intermediate ridge. By linking the two hills with continuous tree planting a large part of the beauty from the landscape would be lost.

- 16) Your petitioners would like to show that due to the topography of the land and local geography around the Bourne Valley, the line will sit on the southern hills and across the valley to the North, the village sits on the opposite hill part below the line level and part above line level looking down on the railway leaving the line in the vision of many villagers from their properties.
- 17) Your petitioners would like to highlight that HS2 Ltd classified the effect to visual receptors as 'major adverse' and the sensitivity of visual receptors as 'high' in the Draft Environmental Statement although all mention of visual impact was withdrawn from the final Environmental Statement even though no design or mitigation changes were made.
- 18) Your petitioners would also like to show that this local topography produces a natural auditorium effect with sounds from the railway on the southern hills of Round Hill and Rookery Hill being carried and amplified across the valley to the residential area of Hints. It is possible to hear people talking on the public right of way that follows the route of the railway 400 meters away from residential properties. There is also an echo in the valley with several reflections across between the hills.
- 19) The petitioners would also show that another effect of the local topography is the funneling effect of noise along the valley. There will be additional noise radiated from the viaduct across the River Bourne at chainage +177.750. This will entail the need for extra sound mitigation at the viaduct.
- 20) The petitioners would also show that the noise channeling down the Bourne Valley is exacerbated when there is a temperature inversion layer present which occurs many times through the year (for example early in the morning when ground-level air temperatures are cool or at night when the frost pocket effect from being at a valley bottom occurs and high-level air temperatures are warmer), if a sound or loud noise (like a train passing over a viaduct) occurs at ground level, the sound wave can get totally reflected from the warmer upper layer (in which the sound travels faster, i.e., the air has lower acoustic refractive index, so the sound can undergo total internal reflection) and return to ground level; the sound, therefore, travels much farther than normal. This is noticeable in areas around airports, when the sound of aircraft taking off and landing often can be heard at greater distances around dawn than at other times of day.
- 21) Your petitioners are concerned that due to the curved track alignment around Hints, being on the limits of the design requirement for a high speed railway residents will be subject to increased wheel to rail screech and additional night time maintenance above the normal amount. This was confirmed by Prof

McNaughton of HS2 Ltd at a meeting held between HS2 Ltd and Representatives from the community Forum area CFA21 with Christopher Pincher MP in attendance on the 18th July 2012. We are confident that this environmental blight from noise within the landscape, the effects on wildlife and on the villagers themselves would be reduced by adopting the minimum mitigation in the form of a green tunnel .

22) *Footpath Hints 14*

Your petitioners wish to draw attention to a footbridge being erected to carry Footpath Hints 14 over the high speed railway. Your petitioners assert that the footbridge will protrude above the landscape earthworks. Your petitioners assert that the construction of Footpath Hints 14 should be constructed in a manner that keeps the footbridge to below the mitigation earthworks and does not detract from the existing landscape and mitigation used to ensure that the landscape value is maintained. The construction of a cut and cover tunnel between two ancient woodlands of Round Hill and Rookery would eliminate the need for a footbridge.

23) *Short cut and cover tunnel*

Your petitioners object to the manner of the construction of an open cutting as Schedule 1 Work No. 3/48 to the south of the village of Hints between Round Hill ancient woodland and Rookery ancient woodland and would recommend that the only way to provide full mitigation to the residents and users of the landscape of Hints and Canwell and preservation of the two ancient woodlands of Round Hill and Rookery Hill would be to incorporate a cut and cover tunnel to traverse the saddle ridge between the two woodlands.

Rookery Lane Underbridge

- 24)** Your petitioners object to the manner of crossing of Rookery Lane Schedule 1 Work No. 3/68. The use of an underbridge with a maximum clearance height of 2.7 metres will not provide adequate access for the residents of Canwell Estate for the movement of farm vehicles or access for emergency vehicles. The alternative route would entail a journey of 7 miles along the major trunk route of the A38. Horse riders would have to dismount to pass through the tunnel and as there are numerous bridal paths and horse livery stables in the Parish of Hints and Canwell this would not be a satisfactory situation. Your Petitioners assert that retention of Rookery Lane upon its existing horizontal line but amendment of its vertical line to lift it over the High Speed railway on the landscape earthworks and across the high speed railway on a bridge. The width of the crossing of the railway at Rookery Lane and also the overbridge at Bangley Lane would need to be 5 meters, sufficient for the passage of current farm traffic ie. tractors with attachments.

Limits of Deviation

- 25)** 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 meters, vertically

downwards to any extent and laterally to any extent within the limits of deviation shown on the deposited plans. Your petitioners are concerned by the effect upon the landscape of Hints and Canwell County Parish and in particular the consequential effects of such an upward deviation in the cutting should rock excavation be necessary. These consequential effects are an upward deviation of the route north of Bangley Lane up to and including the cutting through the ridge at Hints, the route through the valley of the Bourne brook to the north of Hints Ridge and the Bourne Brook viaduct which would not be acceptable to residents within the area of Hints and Canwell Parish.

- 26) Your Petitioner is concerned that these deviations could potentially make significant differences to the impacts of the construction and operation of the high speed railway and associated development, for example by raising the track height 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 endeavors to adopt measures to reduce adverse environmental effects provided it does not add unreasonable cost or delay to the construction and operation.
- 27) Your Petitioner requests that the provisions in the Hybrid Bill to allow deviation upwards should be deleted.

Noise

- 28) Your petitioner has concerns with regards to matters of noise and vibration caused by the construction and operation of the high speed railway. Your petitioner is concerned as there appears to be no mechanism in the Bill to deliver a properly noise mitigated railway.
- 29) Your petitioner is 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.
- 30) Your petitioner is concerned that the thresholds adopted in the Environmental Statement for noise limits were set above what the World Health Organisation considers acceptable. Your petitioner considers this issue is likely to become more pressing given the moves by the World Health Organisation to set new lower targets on the basis of the latest medical research on the impact of noise on human health.
- 31) 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.

- 32) Your petitioner therefore requests 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).
- 33) 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.
- 34) 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.
- 35) 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.
- 36) 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.
- 37) 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.
- 38) Your Petitioner requests that Clause 35 and schedule 25 are deleted from the Bill.

Your Petitioner is 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.

- 39) Your petitioner is 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.
- 40) Your petitioner requests 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 subject to consultation to enable effective public participation on this issue.

41) Code of Construction Practice

Your Petitioner is concerned that the nominated undertaker's ongoing accountability to is unspecified. 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.

42) 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.

43) The standards set out in the environmental statement and the Code of Construction Practice is of "reasonableness" and "reasonable endeavors". 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.

44) Air Quality

Your Petitioner is 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.

45) Your Petitioner requests that before construction there should be an air quality baseline monitoring study benchmarked against the Air Quality Standards Regulations 2010 and a copy of this report should be made public. Your petitioner submits that thresholds for air quality and an air quality mitigation plan should be produced for each Community Forum Area, to apply both during construction and operation of HS2.

46) Your Petitioner requests that the local authority should be provided with powers to monitor air quality in accordance with binding mitigation plans and in the event air quality thresholds are breached, your Petitioner submits that the Bill should be amended to enable the local authority to require the cessation of construction activities until such point as air quality thresholds are complied with.

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 Petitioner 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]

PAUL ROBERT BLACKMORE

Agent for:

Hints and Area Action Group

BACK SHEET

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HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

PETITION OF HINTS AND AREA ACTION GROUP

AGAINST, By Counsel, &c.

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