

IN PARLIAMENT

HOUSE OF COMMONS

SESSION 2013–14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

PETITION

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 THE KENILWORTH STOP HS2 ACTION GROUP Ltd

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 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. Your Petitioner, The Kenilworth Stop HS2 Action Group was formed in 2010, following the publication of the 2010 Command Paper. Your Petitioner represents what is demonstrably the majority view of the residents of Kenilworth, in that we believe HS2 should not go ahead under any circumstances. Whilst Your Petitioner acknowledges that the principle of the Bill is established at second reading, your Petitioners' view on the subject are so strong, they must be recorded in this petition. Your Petitioner represents homeowners and businesses not only within Kenilworth, but the Parishes of Burton Green and Stoneleigh, as well as the City of Coventry.
8. Your Petitioner alleges that they and their property, rights and interests in their area and the inhabitants thereof would be injuriously and prejudicially affected by the provisions of the Bill if passed into law in their present form and they accordingly object to the Bill for the reasons, amongst others, hereinafter appearing.
9. Your Petitioner has always taken a pragmatic approach to HS2. Whilst our primary aim has been to aid the campaign against the project, we have consistently argued for better mitigation and compensation if the project were to go ahead, having partaken in meetings with HS2 Ltd as early as August 2010, before being present at every community forum, as well as attending bilateral meetings with HS2 Ltd. Despite taking this approach, Your Petitioner feels that engagement with The Promoter was a one-way street, with HS2 Ltd denying all the mitigations proposed by Your Petitioner, without giving any explanation as to why, and refusing to act on any issue raised by Your Petitioner, apart from the fact they had got the name of Canley Brook wrong, and it took The Promoter three years to correct this error.
10. Your petitioner is concerned about the validity of the Environmental Statement. After HS2 Ltd stated that HS2 would 'only' go through 19 ancient woodlands, The Woodland Trust who

believe the figure to be 27 (with a further 22 suffering secondary effects) asked them to provide a list of these woods, Crackley Woods was not included, despite the fact it is not only an ancient woodland, but a nature reserve. In all incarnations of the proposed route for HS2, maps have shown HS2 going through Crackley Woods, which a highly utilised recreational amenity. In the information provided to the Woodland Trust, Roughknowles Wood, which is across the road from Crackley Woods was missed off from the list of those woods which would be faced with secondary impacts, despite the fact it will be impacted by the proximity of construction works.

11. Your Petitioner is concerned that The Promoter has completely ignored the following statements, advice and statutes:
 - a. It is a stated policy of the Defra/Forestry Commission statement on ancient woodland *Keepers of Time* that “existing areas of ancient woodland should be maintained”. This implies that there should be no further losses of this habitat.
 - b. The National Planning Policy Framework (NPPF) requires that loss of ancient woodland should not be permitted “unless the need for, and benefits of, the development in that location clearly outweigh the loss”. No consideration of whether the HS2 proposal satisfies this test has been given in the Environmental Statement, or elsewhere.
 - c. The Natural England and Forestry Commission publication *Standing Advice for Ancient Woodland and Veteran Trees* advises, in paragraph 6.1, that where proposals “seek to address issues of loss or deterioration of ancient woodland veteran trees”, measures that rely on mitigation or compensation “should be issues for consideration only **after** it has been judged that the wider benefits of a proposed development clearly outweigh the loss or damage of ancient woodland”.

12. Your Petitioners do not believe that all the likely significant effects on the environment have been adequately described in the ES and are of the view that the mitigation measures proposed have not been adequately described. In many instances, no mitigation is offered or what little mitigation is referenced, is left to the draft Code of Construction Practice (“COCP”). That is inadequate because the COCP is in draft form and will remain as such until after the Bill has been enacted. The term, ‘reasonably practicable’ has been used frequently throughout the COCP but it is not clear who will decide what is ‘reasonably practicable’. Your Petitioner is also concerned to ensure that the Nominated Undertaker is required to adopt the very highest standards in respect of the mitigation of the effects of noise, vibration, dirt and dust.

13. Your Petitioner is concerned that there is no measurable independent method of compliance by contractors and other organisations in relation to noise, vibration, dust and other issues. Your Petitioner requires The Promoter to adequately fund local authorities along the route to monitor these issues, ensure compliance and deliver enforcement.

14. It is vital that the deficiencies in the ES identified by the Environmental Audit Committee of your honourable House, amongst others, are remedied by the Promoter of the Bill, whether by way of an addendum to the ES or otherwise. One reason this is so important is that the Environmental Minimum Requirements, which have been produced by the promoter of the Bill in draft, contain important obligations which will fall on the Nominated Undertaker when

constructing and operating the railway, and a number of those obligations are specifically tied in to the ES and depend upon its accuracy.

15. Your petitioner is concerned that the ES seems to underplay the impact on ecology and the severance of routes used by various species. Whilst Your Petitioner is not in a position to comment in more detail about some of these issues, even from the position of a layman it is evident that assessment of species such as bats, snakes, deer, otters and amphibians is incomplete.
16. Your petitioner is concerned that there are potential adverse impacts on water resources. The increased risk of surface water flooding arising from the construction and operation of the works authorised by the Bill has also been inadequately assessed and has the potential to have significantly adverse impacts, especially with regard to the proposed diversion of Canley Brook. As an example of the incompetence of The Promoter, HS2 Ltd insisted on calling Canley Brook 'Crackley Brook' for three years, and at one stage drew up plans for HS2 to cross it at water level. Despite the proposal to change the course of Canley Brook, the HS2 flood risk assessment for the area has stayed exactly the same. The Flood and Water Management Act 2010 explains that Lead Local Flood Authorities have responsibility for surface water flooding, but HS2 Ltd as of yet have been ignoring this legislation and only liaising with the Environment Agency, whose competence surrounding the issue of flood risk, management and prevention has recently been demonstrated to the entire country.
17. HS2 will significantly impact on travel in and out of Kenilworth during the construction phase. Out of the nine roads into Kenilworth, six will be impacted by around a decade of construction. Additionally, the six-lane A46 Kenilworth Bypass will be re-routed during construction. Currently, Kenilworth Railway station is due to re-open in 2016, before the construction of HS2 starts, as such construction of HS2 will impact on services between Kenilworth and Coventry as soon as they open. Your petitioner believes that these travel constraints will have a significant effect on everyone trying to get in and out of the town. While this will lead to increased journeys to work, the greater concern is for the viability of businesses in Kenilworth.
18. Your Petitioner seeks that suitable arrangements be made to prevent total gridlock in the area.
19. Kenilworth is a town of 23,000 people and is one of the largest communities affected by the proposed railway excepting the urban areas of London and Birmingham. Kenilworth has a high proportion of pubs and restaurants, which rely on custom coming in from out of town. Your petitioner is concerned that years of disruption will affect the viability of these businesses and the jobs of those employed within them. A few years ago, when Severn Trent replaced sewers, a compensation scheme was available for businesses, and your petitioner believes the Nominated Undertaker should be required to implement a similar scheme to compensate for lost business. Your petitioner is also concerned about the impact on Stoneleigh Park, a major employer for the area.

20. Your petitioner requests that the proposed works to the A46 under Schedule 1 Works No 2/169 are revised. This road is a major route through the area and a part of a national network of principal trunk roads and motorways. In this instance, the A46 links together the M40, M69 and M1. At the moment the proposal is to divert the A46 to one side, to excavate and build a retaining structure for the route under on the temporarily extinguished carriageway and then to repeat the process to the other side to create a covered route under. Such a potential disruption to a major road will cause traffic chaos to the route and traffic gridlock to the area. Furthermore, at a bilateral meeting representatives of HS2 Ltd stated that any costs associated with such chaos would have to be met by local councils and the Highways Agency. Your petitioners request that such costs should be borne by the overall cost of the HS2 project.
21. Your petitioner is concerned that the promoter has clearly underestimated the impact there will be on traffic, especially around Dalehouse Lane, and Stoneleigh Road, which are exceptionally busy, both as an access from the town to the A46, and as the main access to the University of Warwick. We have no faith whatsoever in the ability of HS2 to deal with these issues, and suggest that building a second bridge to turn the A46 junction at Stoneleigh Road into a roundabout is considered, and potentially paid for by The Promoter.
22. Your Petitioner objects to the adverse noise and intrusive impacts which will be injurious across the area. Your petitioner believes that HS2 Ltd have significantly under-estimated the impact of noise generated by HS2 on Kenilworth, and notes that HS2 Ltd have rather conveniently projected that noise impacts end just where houses start. Your petitioner find this hard to accept, firstly because Kenilworth is a tranquil area where any increase in noise will be felt, and secondly because HS2 is placed at the base of a valley through the Crackley Gap, noise will transmit and be amplified. Your petitioner believes that the use of a sixteen hour day time LAeq masks the significance of impacts generated by the project. There is a lack of detail on noise mitigation in the COCP, and Your Petitioner is also concerned that clear accountability and enforcement protocols are not defined in the COCP. Your Petitioner asks your honourable House to require the Promoters to address these issues. No proper information has been made available to your Petitioners about the design of noise barriers. Your petitioners have a particular concern about this, because whilst barriers can be an effective way of mitigating noise, they can also be visually intrusive.
23. Your petitioner has significant concerns about the Crackley Gap, which is the 600 yard green belt separating Kenilworth and Coventry. This is one of the smallest green belts in the country, and HS2 threatens the viability of Milburn Grange Farm, which makes up the green belt on the eastern side of the A429. Your petitioner is concerned that this land would be used for development if it cannot economically be farmed in the future. Your petitioner requests that undertakings are made to prevent further development in this area.
24. Your petitioner believes that compensation must be fair and proportionate; and those affected must be afforded a proper opportunity to influence the final determination. Regrettably these principles have not been observed in the current HS2 proposals. Your petitioner hopes that the Select Committee considers previous rulings by the CTRL Select

Committee, which ordered the Nominated Undertaker to buy properties which had failed the hardship test, and the Croydon Tram Select Committee which made a ruling around the issue of negative equity. Your petitioner seeks that compensation should be paid on the sole criteria of suffering loss of value, irrespective of personal circumstances.

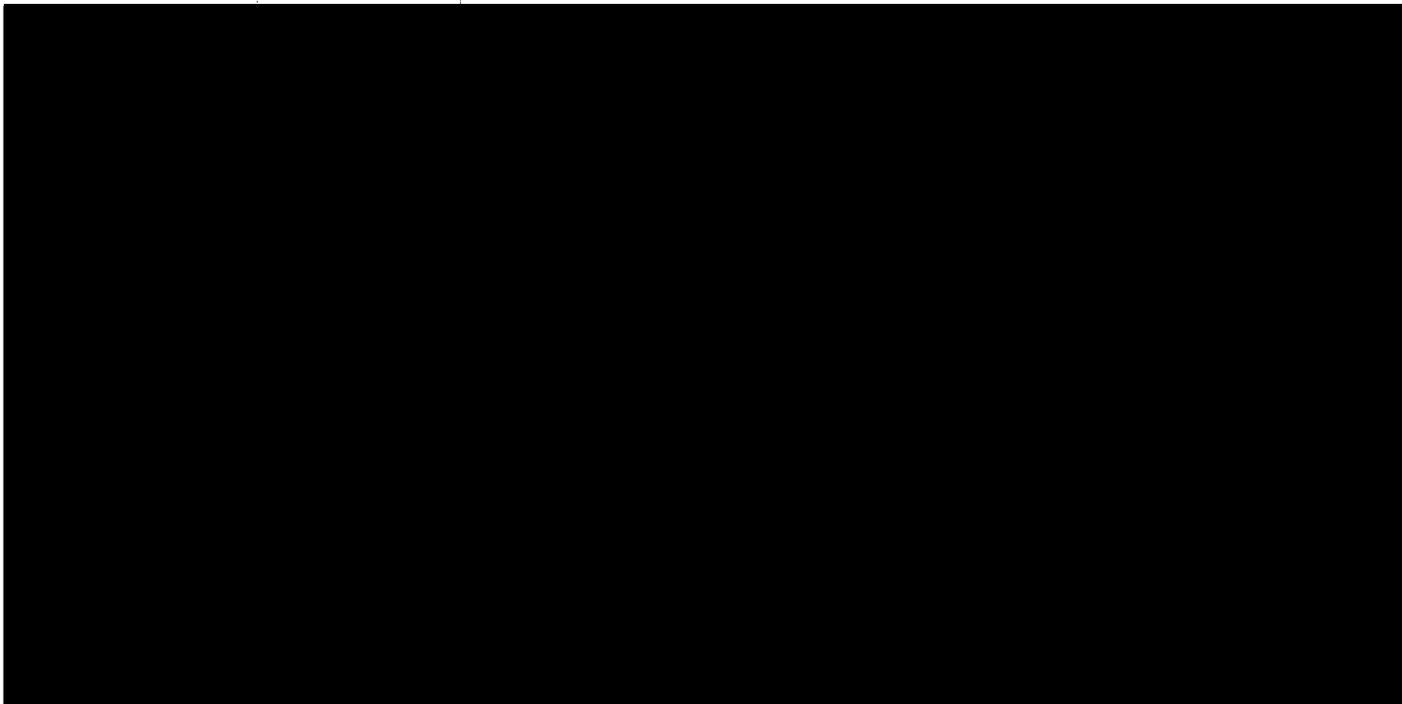
25. Your Petitioner is greatly concerned by the Promoter's plans for the temporary use of the Kenilworth Greenway by heavy vehicles during construction of the railway. This would create a major loss of amenity for Greenway users, and risk irreparable damage and loss in terms of the structure, flora and fauna of the Greenway. Your Petitioner requests that if the tunnelling option is discounted, HS2 Ltd should ensure the Kenilworth Greenway remains viable after the construction of HS2, and that it should be enhanced, by connecting the northern end to Berkswell Station.
26. Your Petitioner has also liaised with Warwick District Council and with Warwickshire County Council, and supports the relevant parts of the petitions which they are making and in particular their views on technical issues, such as for example noise and ecology, in which the Officers of the Local Authorities are expert.
27. Your Petitioner requests your honourable House to require the Promoters to consider the benefits that would arise the provision of a tunnel, starting just south of the A46, and ending north of Berkswell Station. This option was proposed in bilateral meetings with HS2 Ltd by the Kenilworth Stop HS2 Action Group, and no reasons for dismissing this option were ever provided by the promoter. These provisions would provide protection to the community, protection to the local economy during construction, save the Kenilworth Greenway in its entirety, and mean that Crackley Woods, and Broadwell Wood, both areas of ancient woodland would also be saved.
28. Your Petitioner does not understand why HS2 is being designed for a speed of 250mph, when these would require a significantly higher power input than conventional trains, or even Eurostar which has a maximum speed of 186mph. The 250mph design speed is responsible for a large proportion of the damage to communities and the natural environment. The 186mph design speed of HS1 allowed for more sensitive routing, and the ability of that railway to follow existing transport corridors, which brought some benefit to the natural environment, in creating new habitats in islands of land created between the railway and the M2 and M20. Your petitioner does not understand why the 'Kent Principles' were abandoned by HS2, and ask that HS2 is redesigned for a lower speed, 186mph, which would allow more sensitive and sensible routing options.
29. For the foregoing and connected reasons your Petitioner respectfully submit that, unless the Bill is amended as proposed above, so far affecting your Petitioner, should not be allowed to pass into law.
30. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and their rights, interests and property and for which no adequate provision is made to protect your Petitioner.

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 so much of the Bill as affects 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 Petitioner will ever pray, &c.

Signed





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CONTACT DETAILS

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