

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013-14

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) BILL

P E T I T I O N

Against the Bill – 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 OFFCHURCH HS2 ACTION GROUP

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 and 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 of 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 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, the Offchurch HS2 Action Group, are an association of residents of Offchurch, Warwickshire, established in 2010 at a public meeting of residents of the parish, to protect the interests of local residents in relation to the proposal for HS2. Your Petitioners include residents and landowners directly affected by HS2. Your Petitioners’ representatives have been actively engaged with HS2 Ltd as members of the Offchurch and Cubbington Community Forum and the associated programme of bilateral meetings with HS2 Ltd personnel. Your Petitioners work closely with the Eathorpe, Hunningham, Offchurch and Wappenbury Joint Parish Council, with Joint Parish Council representatives on the Action Group committee.
8. Your Petitioners allege that their rights, interests and property and those of their members will be injuriously and prejudicially affected by the provisions of the Bill if passed into law in their present form, and your Petitioners accordingly object to the Bill for the reasons, amongst others, hereinafter appearing.
9. Your Petitioners have taken every opportunity that has been offered to engage with HS2 Ltd to discuss the impacts the Bill’s authorised works will have on the Parish of Offchurch, including community forum and bilateral meetings and responding to public consultations in 2011 and in 2013 on the draft and final Environmental Statement. Your Petitioners have contributed energetically and enthusiastically to these processes, and have submitted proposals that they consider would involve reduced environmental impacts.
10. Your Petitioners feel that this process of engagement has been unsatisfactory, in that environmental and community concerns have not received the full and sympathetic consideration that should be expected. Your Petitioners also feel that the design of the works fails to secure the level of protection for the local environment that would be expected from a world-class project, and provides insufficient mitigation of environmental impacts.

11. The Environmental Statement (Vol 2 Report for CFA 17 para 2.6.12) agrees that mitigation measures proposed by the local community would lead to fewer significant environmental effects, but because of the associated increased construction complexity and costs it concludes that the existing approach should be retained.
12. For all of the above reasons, your Petitioners seek mitigation against the significant detrimental environmental effects that the current design and proposals for HS2 would otherwise bring to their community.

Trackbed height

13. The Bill's promoter recognises as a principle of route design the advantages of "keeping the proposed alignment as low in the ground as possible" (ES Vol 1 para 9.12.1). At the time of the 2011 public consultation, with the exception of the crossings of the river Leam and the Grand Union Canal, no part of the trackbed was more than 2 metres above the existing ground level.
14. Since the public consultation, however, the Promoters have progressively increased the trackbed height through the Parish of Offchurch since the public consultation.
15. This increase in height has been applied to almost the whole of the proposed route through the parish, and is substantial, being up to 7 metres in the worst case.
16. The impact of the raising of the trackbed across Offchurch parish will very substantially increase both noise and visual impacts to the detriment of the environment and residents. It has also had an unfavourable knock-on effect on the design of ancillary features, such as necessitating the height of an existing road that crosses the track to be increased by providing embankments and requiring mitigation earthworks to be larger and more visually intrusive than would otherwise be the case.
17. In the light of the proposals consulted on, your Petitioners are severely disappointed that the trackbed height has been increased and to such a degree.
18. Your Petitioners seek a commitment from the Promoters to reduce the trackbed height across Offchurch parish so that it is no higher than that presented in the 2011 public consultation.

River Leam viaduct

19. In community forum and bilateral discussions with HS2 Ltd, your Petitioners have repeatedly stressed that much of the countryside through which HS2 will pass on its proposed route through the Parish of Offchurch is sensitive to man-made intrusions and particularly vulnerable to the impacts that such intrusions may bring. This is

particularly true in the case of the Leam valley, which straddles the three parishes of Offchurch, Cubbington and Weston under Wetherley.

20. The proposed height of the viaduct that will carry HS2 across the River Leam is approximately eleven metres. Such a high structure will have a significant visual impact on the valley and requires substantial embankments to support the track either side of the viaduct together with large mitigation earthworks.
21. The noise impact upon the valley from the elevated tracks, as illustrated by the noise footprint (ES Vol 2 CFA 17 Map Book, Map SV-05-046), is substantial.
22. The Promoters confirmed following one of the meetings that the minimum height of the viaduct in order to satisfy flood requirements is nearly six metres. The viaduct is, accordingly, approximately five metres higher than is necessary to protect HS2 from flood risk.
23. Your Petitioners seek a commitment from the Promoters to reduce the trackbed height across the Leam valley to the minimum possible.

Offchurch green (cut and cover) tunnel

24. Your Petitioners seek the conversion of as much as possible of the proposed open cutting between Hunningham Road and the Welsh Road to a cut and cover tunnel. This would have major and wide-ranging benefits regarding the environment and amenity, noise, communications, land take and the local economy. These can be summarised as follows.

Environment and amenity

25. Cut and cover tunnelling would –
 - (a) Maintain the integrity and attractiveness of Offchurch Greenway and Sustrans Route 41, which would be compromised by an open cutting.
 - (b) Provide a wildlife corridor linking habitats on each side of the track in an area which would otherwise be severed by HS2. In this respect it would be much more effective than the proposed green bridge at Offchurch Greenway which appears to be only about 10m wide (ES Vol 2 CFA17 Map Book Map CT-06-089).
 - (c) Allow the reinstatement of Burnt Heath reservoir which is an important local wildlife and economic resource.

Noise and visual impact

26. Cut and cover tunnelling would very significantly reduce the noise and visual impact of HS2 over a substantial part of Offchurch parish, benefiting residents, local businesses and leisure visitors. This includes reducing light pollution in what is a 'dark sky' area.

Communications

27. If a cut and cover tunnel were adopted, a significant number of roads and Public Right of Way ("PRoW") could be reinstated post-construction without the need for, and cost of, separate bridges and associated road realignments, potentially including:
- (a) Road bridges: Long Itchington Road (reversing the proposed permanent closure); Fosse Way bridge.
 - (b) Two Public Rights of Way (footpaths W128 and W192) and the Sustrans National Route 41.

Land take and the local economy

28. If a cut and cover tunnel were adopted, permanent land take in Offchurch would be substantially reduced, helping to reduce the economic impact on agricultural units and losses of value to local properties and businesses, such as the outdoor activity businesses at Burnt Heath Farm.
29. Your Petitioners consider that the Promoter has failed to adequately appraise the costs and benefits of this proposal. The 'Sift' assessment conducted by the Promoter appears designed to reject all consideration of the cut and cover tunnel proposal. In addition, the Sift assessment lacked any rigorous basis for balancing benefits and costs.
30. Your Petitioners seek an amendment to the Bill to convert the proposed open cutting between the Hunningham Road and the Welsh Road to a cut and cover tunnel.
31. As has been the case for some time, your Petitioners would be willing to discuss this proposal with the Promoter, with a view to the promotion of an outcome significantly better than the current scheme.

Public rights of way (PRoW)

32. In Offchurch parish many PRoW would be heavily impacted by HS2, both during construction and operation of the line. Seven out of ten are bisected by the route; in four cases virtually the entire length would be impacted by averaged daytime noise levels higher than 50 db and in nine out of ten more than one third of the route is similarly impacted.
33. Your Petitioners submit that these impacts are detrimental to both the local community and to people from elsewhere using the PRoW for recreation, and do not consider that the planting and vegetation suggested in the Environmental Statement provide sufficient mitigation.
34. Your Petitioners seek an undertaking that the Promoters be required :

- (a) To route Sustrans R41 along Offchurch Greenway to its junction with the Fosse Way and construct a footbridge over the Fosse Way at this point. This would enable it to join up with the proposed extension of R41 and avoid the proposed routing across the middle of a field.
- (b) To replace Path W128, which will be unattractive to pedestrians if redirected as the Promoters propose, by a new path along Butchers Hill, paralleling Welsh Road between Offchurch Village and the Greenway at the Welsh Road/Long Itchington Rd junction. This proposal has landowner and community support. Alternatively, your Petitioners request that the design for Footpath W128 includes physical separation between the pedestrians and the traffic in a suitable form, including a physical barrier on the overbridge. It must also cater for horses.
- (c) To consider, with the landowner, a re-routing of Footpath 129Y along the river Leam to join Bridleway 129X where it crosses the river Leam.
- (d) To adopt the proposals for a cut and cover tunnel, discussed above, and to lower the track height, also discussed above which would have a major positive impact in mitigating the damage to many of the PRoW in the area.
- (e) That all footpaths in Offchurch, and the Offchurch Greenway and Sustrans Route 41, will remain open to walkers throughout the construction period, via diversions if necessary.

Construction issues

- 35. Your Petitioners submit that insufficient consideration has been given to the impact of construction on residents and landowners in Offchurch. It is unacceptable that the Code of Construction Practice is not finalised, the BMRs and LEMPs are not written and many crucial issues are qualified in the Environmental Statement by phrases such as 'where reasonably practical'. Accordingly the environmental impact caused by construction is incapable of being assessed.
- 36. Your Petitioners consider that the assessment of the impact of construction on residents and landowners in Offchurch should not be postponed until the Code of Construction Practice and other documents are finalised. Your Petitioners are especially concerned about two issues: first, the use of rural roads and lanes for construction and secondly, the proposal for a large materials handling yard immediately north of the proposed track between Offchurch Greenway and the Fosse Way, which would mean major disturbance to nearby properties (and to users of Offchurch Greenway) over a long period of more than five years, including the potential for night working.
- 37. Your Petitioners seek an undertaking that the Promoters will make specific proposals which would guarantee maximum use of the trackbed rather than rural roads, and of major roads (such as the Fosse Way) rather than minor roads (such as Hunningham

Road, Welsh Road, Long Itchington Road). The input of the highway authority will be required here.

38. In addition, as the current scheme fails to explain how nuisance from the materials handling yard will be adequately mitigated, your Petitioners seek undertakings from the Promoters to effectively manage and limit any nuisance arising from that yard or to identify alternative, less disruptive locations for this facility.

Impact on residential properties

39. Numerous properties would be impacted by noise and visual disturbance. This is discussed below. The proposals would also have a direct impact in terms of permanent or temporary land take on a number of residential properties. Mitigation measures proposed are inadequate and design alternatives have not been adequately considered.
40. Your Petitioners understand that the property owners themselves are petitioning in respect of land take and inadequate mitigation and your Petitioners support their petitions on these points.

Agriculture

41. The impact of both construction and operation on farm businesses has been inadequately recognised.
42. There is much productive agricultural land across the whole of Community Forum Area 17. Mindful of how climate change threatens our capability to feed ourselves, considerable investment in technology has been made by the landowners to maximise the productive cultivation of cereals, salad crops and seed oils, which are key to our agricultural economy. The land that will be taken cannot realistically be replaced by the farmers concerned, and further land in their ownership becomes unviable due to its bifurcation by the line.
43. Hence your Petitioners suggest that the impact of both construction and operation on farm businesses has been inadequately recognised and your Petitioners therefore emphasise the economic as well as the social benefits of a cut and cover tunnel as they have proposed above.

Noise and visual impacts

44. Your Petitioners wish is to minimise both the noise and visual impact of HS2 on their communities. This is important for the preservation of the tranquillity of the countryside, as well as protecting dwellings from high levels of noise and maintaining the character of designated conservation areas.
45. The Promoters propose to use the earth removed from local cuttings during construction to create false cuttings to reduce visual and noise effects. However no

cross sections of these earthworks have been provided nor have noise fence barriers been proposed in many of these areas.

46. Your Petitioners take the view that the 'integrated earthworks design approach' is likely to lead to inadequate screening in some places and excessively large earthworks in others. The appropriateness of these measures has never been discussed with local community representatives, nor have your Petitioners been made aware of the policy being applied by the Promoters to design noise mitigation.
47. Your Petitioners seek details of the Promoters' noise mitigation policy and an explanation of how the application of this policy has led to the highly selective mitigation features that are proposed for your Petitioners' community in the Environmental Statement. Your Petitioners reserve their right to raise additional points once they have had an opportunity to consider the required information.
48. The noise contours currently forming the basis for mitigation measures are based on averaged noise levels, not the real pass-by noise which would actually be heard, although estimates of the latter, which is of course much higher, are now available within the Bill documentation. While averaged noise data may be relevant to road and motorway contexts where traffic is relatively constant, it is not relevant to rail contexts, especially (but not only) during periods (for instance, at night) when intervals between trains are extended. This is indicated by the fact that the averaged noise data employed by the Promoters implies- totally unrealistically - that trains would be quieter at night, whereas it merely shows that there would be fewer trains at night, which would be just as noisy as during the day.
49. Your Petitioners seek an undertaking requiring the Promoters to propose noise mitigation measures adequate to deal with the real-world, pass-by noise which residents would experience.
50. Your Petitioners are concerned that the noise predictions in the Environmental Statement indicate that many residents in Community Forum Area 17 will experience noise resulting from the operation of HS2 that is in excess of the levels identified by the World Health Organisation (WHO) as causing annoyance and sleep disturbance. Your Petitioners are also concerned that the daytime threshold specified by the promoter is in excess of the level of 40dB that the WHO recommends "should be considered as the maximum allowable sound pressure level for all new developments whenever feasible", particularly as the promoter does not observe thresholds as maximum levels but only as indicators of impacts.
51. Your Petitioners are also concerned that the Environmental Statement predicts that residents in Community Forum Area 17 will suffer adverse effects from ground-borne sound and vibration and airborne sound resulting from construction activities.

52. Your Petitioners require that the promoter operates an effective noise mitigation and monitoring system for construction activities and suggests that the details of this system are specified in the Code of Construction Practice and associated documents.
53. Your Petitioners seek an undertaking that the noise resulting from the operation of HS2 will be monitored throughout Community Forum Area 17 and that additional appropriate remedial measures will be taken in respect of any noise receptors that are found to experience noise at levels higher than those predicted in the Environmental Statement.

General

54. There are other clauses and provisions in the Bill which, if passed into law as they now stand, will prejudicially affect the rights and interest of your Petitioners and other clauses and provisions necessary for their protection and benefit are omitted therefrom.

YOUR PETITIONERS THEREFORE HUMBLY PRAY

your Honourable House that the Bill may not pass into law as it now stands and that they 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 amendments as may be necessary and proper for their protection and benefit.

AND YOUR PETITIONERS will ever pray, &c.



Sharpe Pritchard LLP

Agents for the Offchurch HS2 Action Group

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PETITION

of

THE OFFCHURCH HS2 ACTION GROUP

AGAINST,

BY COUNSEL, &c.

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