

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 Thomas Crane 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.
- 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 (“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.

Your Petitioner

- 7 Your Petitioner is a resident in the Chilterns Area of Outstanding Beauty (AONB), who will be directly and specially affected by both the operation and construction of the proposed HS2 line.
- 8 Your Petitioner is the freeholder of Ferndale, Ballinger Road. This property is in the South Heath area of Great Missenden parish, a community of over 300 homes that depends on the facilities of Great Missenden and surrounding villages/towns, and will be

permanently blighted by HS2. Your Petitioner notes that South Heath is the only village in Buckinghamshire, and one of only a few places on the entire Phase 1 of HS2 route, which is singled out in the Environmental Statement as having severe adverse community wide effects.

- 9 Your Petitioner's home is within 300 metres of the line of HS2. Although the line will be in the green tunnel at this point your Petitioner's home will be very close to the south portal of the green tunnel and consequently be exposed to excessive noise from the operation of HS2. It is also within the Zone of Theoretical Visibility of HS2 for construction and operation (as set out in the Environmental Statement (ES)).
- 10 Ballinger Road is effectively cut off from Great Missenden by the connecting roads being construction routes. These roads will be used by construction traffic for a total of 4 years. Your Petitioner and her family use Frith Hill (South Heath Leg) for accessing Great Missenden for the train station, post office, shops, doctors and other amenities several times a day, as this is the direct route. Frith Hill will be entirely closed for 2 years and used by unsuitable heavy construction traffic when it is open. The alternative route via Kings Lane and the B485 will be heavily congested, as they are also construction traffic routes. Your Petitioner's children go to school in Amersham and his daughter will soon start school in High Wycombe which means that in making both journeys it will be necessary to cross the HS2 trace and to negotiate the road closures and diversions. Other alternatives will be congested as they are also construction routes or will carry excessive traffic from those seeking a way round the congested direct routes. The road closures and diversions will isolate the Petitioner's home from Great Missenden, the A413 and Amersham, and will make daily life very difficult. Your Petitioner has to drive each day to work along the A413 and it will affect his daily journey considerably if there are delays and traffic diversions as a result of the construction of HS2.
- 11 Your Petitioner is a member of local environmental group Residents Environmental Protection Association (REPA) and the Ballinger Road Residents' Association and is particularly concerned about the impacts of HS2 on the village of South Heath and surrounding areas.
- 12 Your Petitioner's rights interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons, amongst others, hereinafter appearing.

Your Petitioner's Concerns

- 13 Your Petitioner is concerned about the long term damage and permanent injury from visual and acoustic impacts in the AONB of the operation of the line between Mantles Wood and Wendover, and its supporting infrastructure and furniture. The destruction of ancient woodlands (that represents 25% of all the losses to ancient woodlands on the line), the loss of farmland and landscape, the proposed new dump of spoil at Hunts Green Farm, the embankments and viaducts across the valley, the permanent stopping up and re-routing of PROW, all add up to a severe impact on this area of the Chilterns AONB.
- 14 HS2 crosses the widest part of the AONB and less than 50% is in a bored tunnel. Between Mantles Wood and Wendover, Buckinghamshire, the proposed route is on the surface and includes sections in shallow cuttings, on two viaducts, on embankments and in two green tunnels. This area is designated as an Area of Outstanding Natural Beauty under Section 85 of the Countryside and Rights of Way Act 2000 (CROW Act) and is further protected under the National Planning Policy Framework and the European Landscape Convention.

Remedies /Mitigation requested

- 15 Your Petitioner requests that the AONB be protected from these effects by amending the Bill so the line passes throughout the AONB in a bored tunnel, as proposed by the Chiltern District Council or by extending the present Chiltern tunnel proposals by adopting

the CRAG T2 proposals. The latter is referred to in the Environmental Statement and accepted as both feasible and environmentally preferable. Either of these options would substantially remove the adverse effects complained of in this petition and the need for the proposed remedies otherwise required.

- 16 Your Petitioner requests that, if the proposal for a full tunnel throughout the AONB is rejected, then the Proposers Chilterns bored tunnel should be extended at minimum for 4kms from Mantles Wood to Leather Lane. The South Heath Chilterns Tunnel Extension (SHCTE) (referred to as the REPA tunnel in the ES at Vol 2, 2.6.18 CFA 9 but extended to Leather Lane) has acknowledged substantial environmental benefits, and for no net cost can preserve a further 4km of the AONB from adverse effects – including that part in the immediate vicinity of your Petitioner's home. This would be the single most effective way of protecting the community of South Heath and it would have the added benefit of reducing compensation payments as it would considerably reduce the property blight suffered by South Heath.
- 17 In simple terms the South Heath Challenge Tunnel is a simple and inexpensive way of protecting sensitive environmental features and two large communities-South Heath and Hyde Heath. The beneficial impacts of such proposals will impact a far wider area given the reduction in need for construction traffic, road closures and the production of dramatically reduce the amount of spoil created by the construction of HS2. The current plans for the route of HS2 envisage tunnelling between the M25 and Mantles Wood. These proposals simply use the existing tunnel boring equipment which is currently due to be removed at Mantles Wood and requests that it continues on the same trajectory until the land falls away around Leather Lane. It is a simple, low cost and environmentally superior solution and should be adopted without delay.

Addressing permanent issues

- 18 If Parliament do not agree to extend the Chilterns' tunnel then the following mitigations would be needed to ameliorate the worst of the permanent effects, and your Petitioner requests that provision is made for:
- a. the cuttings adjacent to the South Heath Green Tunnel should be made deeper, and return to the levels originally proposed by the 2011 consultation, with continuous full height (5m) high specification sound barriers (both sides of the line to protect residents and footpaths) immediately adjacent to the track to reduce noise, and with bunds to conceal the line and the gantries where appropriate. Furthermore the South Heath Green Tunnel should be extended to provide better protection in operation to Potter Row and South Heath and the footpaths out of Great Missenden to Potter Row, and between Little Missenden, Hyde Heath and Hyde End.
 - b. HS2 is placed in fully retained cuttings to reduce land take of gardens, ancient woodland and farmland
 - c. That the power for the contractor to raise the line by up to 3 metres is excluded for the AONB section of the line, especially in the area from Mantles Wood to the Wendover Dene viaduct where the line has already been raised from the alignment originally proposed
 - d. That provision is made for constructing bridges where there are established rights of way, and to make these green bridges, in order to retain trees and shrubs and permit wild life access, particularly given that this is part of the AONB. Plant mature trees over the South Heath green tunnel to emulate the previous character.
 - e. That the speed of the trains be reduced as per the recommendation of the House of Commons Environmental Audit Select Committee Report, but permanently, in order to help reduce the environmental impact.
 - f. That compensatory planting commence at the earliest opportunity and with the use of mature trees able to grow to at least forty feet high, in order to conceal the line from view at the earliest possible time – with funding for their maintenance in perpetuity. Where this replaces ancient woodland it should adopt the 30:1 ratio supported by the Woodland Trust and not 4:1 as currently proposed
 - g. That the plans for the Hunts Green Spoil Dump are cancelled and that arrangements be made for the spoil to be removed from the area by rail or pipeline. Your Petitioner

points out that, if the full tunnel proposals are adopted, then the amount of spoil involved for this section of the line will be very substantially reduced and it would also all be removed at the Wendover exit of the tunnel, and that if even the REPA tunnel is adopted, according to HS2 Ltd there would be no need for the Hunts Green landfill site, as there would be no surplus spoil.

- h. That in relation to the balancing ponds and other water management measures, that alternative techniques are considered in consultation with the local authority, and that if necessary waste water is tanked and then removed for sustainable disposal
- i. That property blight is compensated by extending the compensation available under the Land Compensation Act 1973 to cover all losses not just those relating to nuisance
- j. That the pylons are removed and the power lines are reinstated underground, rather than moved and then re-instated on the surface, as proposed
- k. That the Wendover Dean and Small Dean viaducts and adjacent embankments be of high quality infrastructure to be made as visually pleasing as possible, with enclosures where possible and with boxing for effective noise containment .
- l. That the existing proposed green tunnel at Wendover be extended to the south and north of Wendover.

Addressing construction issues

- 19 Your Petitioner requests that the Nominated Undertaker be required to mitigate the construction issues, by giving the Code of Construction Practice legal effect, with independent assessment of compliance and sanctions for breach. The Code should specify, in all cases, the need for work, facilities and construction, to be to the best available standards and techniques, and to the highest standard of construction and operation of the railway and its associated developments. The Code should be amended to enforce the following measures:-

- a. Properties in the South Heath area are significantly blighted from the prospect of HS2, and this is likely to worsen when construction is underway. To address this, the proposed 'need to sell' scheme should be amended to cover anyone wishing to sell their property if it is blighted irrespective of financial status. Or alternatively the property bond as proposed by HS2 Action Alliance should be implemented. Furthermore, all those remaining who suffer the impacts of construction should be compensated.
- b. Construction noise and vibration - including that from construction traffic - lasts for years in total and so should not be allowed higher noise limits than for HS2's operation. Exposure should be monitored and enforced by the Local Authority who should have powers to stop work if limits are exceeded
- c. Constructing new temporary roads to access the trace directly from the A413, and prohibiting the use of all existing minor roads in the AONB to be used by construction traffic eg Potter Row, Kings Lane, Hyde Lane, Hyde Heath Road, Frith Hill South Heath leg).
- d. Restricting HGV movements to the period 09:30 - 15:30 throughout this section of the AONB.
- e. Additionally prohibiting HGV movements along school routes between 15:00 and 15:30.
- f. Prohibiting any widening, straightening or enlargement of the narrow minor lanes for construction traffic.
- g. Operating a 'Park and Ride' scheme to transport construction workers along the trace, and enforcing this by not providing parking for contractors at the construction compounds.
- h. Dust exposure limits to be specified, monitored and enforced by local authorities (funded by the promoter), with powers to stop works if exceeded. Special attention to be paid to the spoil heaps and impacts of westerly winds effecting South Heath and Hyde Heath
- i. That contractors in the AONB be required to restore the land and temporary access roads after use to acceptable AONB landscaping and that local authorities be given the power to inspect such works and if necessary sanction contractors
- j. During construction, the Nominated Undertaker must be responsible for maintaining

the quality of all roads used during and after construction, so that the roads must be returned to its original size and character, and all damage repaired by the nominated undertaker.

- k. That the Promoter provides an air ambulance with crew on standby during working hours, to ensure that medical emergencies receive a prompt response.
- l. A hotline should be set up allowing road users to report any damage to the road, and the highway authority should have access to all reports, to ensure these are addressed and remedied in a reasonable length of time.
- m. That in relation to the River Misbourne, full surveys and continuing monitoring should be undertaken regarding water quality and the effect of the construction works, with actions undertaken, including cessation of construction in this area, if any adverse impacts are found

- 20 If Parliament only agree the SHCTE, mitigations with reference to the AONB north of Leather Lane are required.

Full Tunnel proposal

- 21 The Petitioner emphasises that the mitigation measures set out in this petition would in large measure be unnecessary and the impacts would be otherwise effectively mitigated if the Bill were to be amended to include the provision of a full tunnel throughout the AONB.

Objection to the detailed route and speed

- 22 Your Petitioner doubts that the current route that accommodates the proposed inappropriately high speed through the AONB would have been selected had a Strategic Environmental Assessment been conducted, since the obvious difficulties in constructing a line through this area would have become apparent. A lower speed would allow HS2 to use existing transport corridors and greatly reduce environmental impacts, while adding little to journey times. Dropping the maximum speed from 225 mph to 185 mph adds just 4.5 minutes to the London – Birmingham journey time, according to the draft ES. 'Future proofing' the route to allow 250 mph in the future, increases the environmental damage caused by the route.
- 23 Your Petitioner requests that a lower speed be adopted –such as that of HS1 – and a route be determined and adopted that exploits the greater ability for following existing corridors and avoiding sensitive environments.
- 24 The list of grievances above is by no means exhaustive and, due to the inadequacy of and omissions and errors in the Environmental Statement (ES) prepared by HS2 Ltd, it is inevitable that that the construction of HS2 will disrupt the lives of the residents in the AONB, including those of your Petitioner, in ways which have not yet been realised. Your Petitioner wishes the ES to be corrected and to be allowed to raise further issues of concern on those matters which are corrected or on which additional information is provided, eg road congestion, waste management and noise.
- 25 For the foregoing and connected reasons your Petitioner respectfully submits that, unless the Bill is amended as proposed above, the relevant clauses so far affecting your Petitioner should not be allowed to pass into law.

Failure to comply with the Aarhus Convention

- 26 Your Petitioner considers that the Bill fails to comply with the three pillars of the Aarhus Convention in relation to the Hybrid Bill process in that this does not, in its current form, comply with the requirements for access to information, effective public participation and access to justice as follows:

- Article 4 (access to information) and Article 5 (obligation on public authorities to provide environmental information): The environmental statement does not provide clear and understandable descriptions of the likely level of environmental impacts. Over 40% of the route has still not been surveyed and there appear to be no plans in place to inform the public of the outcome of any further surveys. In addition, there appears to be no mechanism in place for correcting errors made the in Environmental Statement and informing the public or the Select Committee of the same. No information has been provided on how the proceedings of the Bill Select Committee would comply with Articles 4 and 5.
- Article 6 (public participation): It is unclear how there is effective public participation through the parliamentary Hybrid Bill process. The Select committee will be constrained by earlier decisions, and as all options (including alternatives) are no longer open to consideration, effective public participation cannot be provided.
- Article 9 (access to justice): there is no available process for challenge of any decision made by the Select Committee.

27 Your Petitioner notes the decisions by the Compliance Committee concerning the issues raised by private interests having influence over development decisions and the role of Government in promoting particular projects to the exclusion of effective public participation and considers that such matters have not been complied with in respect of HS2.

28 Your Petitioner considers the Hybrid Bill process, including the process of petitioning to be wholly inconsistent with the obligations of the Aarhus Convention and submits that the Select Committee should obtain independent legal advice as a matter of urgency to remedy the defects in process to address this issue.

29 Your Petitioner submits that an amendment should be made to the Bill to require HS2 Ltd to comply with the provisions of the UK Corporate Governance Code, in particular the obligations concerning appointment of non-executive directors with an appropriate balance of skills and that the practice of lobbyists working for clients in the transport and construction sector be prohibited.

30 Your Petitioner believes the current Parliamentary process for obtaining development consent for HS2 is incapable of complying with the requirements of the Environmental Impact Assessment Directive.

31 Your Petitioner intends to address the Select Committee on the non-compliance with the Aarhus Convention and the EIA Directive.

Cuts To Existing Rail Services

32 Your Petitioner is a regular user of rail services and is concerned that the plans set out in the Hybrid Bill to disapply provisions of the Railways Act are required to implement the proposals to cut existing rail services. Your Petitioner submits this aspect of the high speed rail proposals are not well understood and will be highly damaging to many communities across the country. Your Petitioner is concerned that the carbon and traffic congestion impacts of such service cuts have not been considered as part of the project and request that the Select Committee require the Promoter to provide such figures.

Health Impacts

33 Your Petitioner is concerned about the potential health impacts in his community arising from the construction and operation of HS2. Such concern has increased due to the selective and misleading information set out in the Health Impact Assessment published

by HS2 Ltd. Your Petitioner notes that no opportunity for public participation on this document has been provided and no safeguards are provided for communities impacted by years of dust, vibration and heavy traffic. Your Petitioner requests that a consultation on the Health Impacts of HS2 be undertaken as soon as practicable and the results of such consultation be independently assessed and reported to the Select Committee. Your Petitioner submits that the Promoter be required to publish plans on how it intends to deal with such public health issues raised by the proposals for HS2.

Compensation

- 34 Your Petitioner notes that despite numerous consultations, feedback from relevant professionals and basic principles of fairness the Promoter remains unwilling to provide fair compensation for households impacted by generalised blight. Your Petitioner notes that the Promoter refuses to acknowledge this matter is a problem, despite the overwhelming evidence on this issue. Your Petitioner is therefore being asked to pay three times for HS2: once through his taxes, second through the health and environmental damage to his community and third through the value of his primary asset. Your Petitioner requests that the Promoter be required to implement a compensation scheme reflecting the scheme used by SNCF in respect of the construction of routes for the TGV. Your Petitioner believes that if the country is mad enough to want to build HS2 it should pay proper compensation.

YOUR PETITIONER therefore humbly prays 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.


Name

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HIGH SPEED RAIL
(LONDON-WEST MIDLANDS)
BILL

PETITION OF

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AGAINST, By Counsel, &c.