

HYBRID BILLS

LESSONS FROM THE HS2 SPECIAL REPORTS: What are Select Committees interested in?

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Introduction



Where does the petitioning process sit within the hybrid bill procedure as a whole?

Bill deposited	
First Reading	- This is a procedural step; no debate; printing of Bill is authorised.
Environmental Statement consultation	- Public consultation on the ES
Second Reading	- Principle of Bill established - Debate on the floor of the House - Length of petitioning period defined - Purpose of the Bill assessed
Petitioning Period	- As per period defined in Second Reading
Select Committee	- Petitioners heard in front of committee
Public Bill Committee	- Further consideration and possible amendment by MPs
Third Reading	- House considers Bill; may amend or reverse PBC changes
House of Lords	- Bill will normally follow a similar process through the House of Lords
House of Commons	- Any amendment to Bill made by House of Lords debated and approved by House of Commons
Royal Assent	



Context of Select Committees' function



- Principle of the Bill is not up for debate
- 'the purpose of the petitioning process being... to protect those who may suffer particular adverse effects beyond effects on the public at large' (*House of Commons Select Committee Second Special Report of Session 2015-16*)
- Statutory framework for compensation is in the background: (i) is it being properly applied; (ii) is this a case which raises the kind of issues to which the statutory framework may not provide an entirely satisfactory answer?

Context of Select Committees' function



- Between 29 April and 23 May 2014, 1,918 petitions were lodged against the HS2 Bill
- 668 petitions against (five) additional provisions; amendments to Bill powers potentially having adverse direct and special effects on particular individuals or bodies
- *House of Commons Select Committee* eventually heard approx. 1,600: around 800 were withdrawn or not subject of any appearance; Began sitting in July 2014 and concluded hearing in February 2016 after 160 days of sittings; produced three special reports:
 - *First Special Report of Session 2014-15*: petitions in relation to northernmost sections of line from Birmingham Curzon Street and Staffordshire to the borders of Buckinghamshire; almost half of the route; SC halted work for general election
 - *First special report of session 2015-16*: short report dealing with the Need to Sell scheme, the compensation package offered by govt in relation to phase 1;
 - *Second Special Report of session 2015-16*: dealt with route through Staffordshire, West Midlands, Oxfordshire, Buckinghamshire, Chilterns, Camden & Euston,
- *House of Lords*: Petitioning period from Thursday 24 March 2016 to Monday 18 April 2016; 821 petitions deposited; almost all who deposited petitions also did so in the HC

So....what were the HS2 Select Committees particularly interested in?

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Headline points:

- (i) Is petitioner framing issue in terms of a sensible cost-benefit analysis?
- (ii) (Connected to above) Is petitioner considering alternatives?
- (iii) Is there some exceptionality to the situation?
- (iv) Select Committees (especially House of Commons) seem to respond positively to involvement of local MP.



(i) Cost-benefit analysis?

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“You can’t always get what you want”

- Rolling Stones
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(i) Cost-benefit analysis?

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- **Committees respond well to petitions which factor in some kind of a cost-benefit analysis:**
 - Alternative that is both less harmful and represents better cost-benefit outcome = a winner. e.g. in Staffordshire – petitioners, with local MP, made representations on an alternative horizontal and vertical alignment where Bill proposed a high viaduct over A38 and agricultural land:
 - *‘We heard that, although this approach would affect certain properties more adversely, it would be less visually intrusive (including from the city of Lichfield) and more sympathetic to the canal environment. We understand that it would also save money. We made our provisional views known and we were pleased that HS2 Limited came forward with a proposal to adopt the alternative alignment’* (House of Commons SC, re alternative alignment of line in Staffordshire)
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(i) Cost-benefit analysis?



Cost-benefit analysis is the standard approach:

- Noise mitigation in Chetwode: *'We heard that tunnel options offering substantial increases in noise protection would cost between 14 and 24 times more than noise barrier options. A green bridge option would cost at least four times more while offering only minimal additional noise protection and arguably only minor landscape and integration benefits. Although we concluded that additional costs of that order would not be proportionate, we stipulated that there should be noise barrier protection extending to both ends of the village, at an additional cost of £3m.'* (2nd House of Commons SC report of 2015-16)
- Noise mitigation for St Mary's church, Wendover: *'The Promoter has allocated some £250,000 to noise protection measures for St Mary's church. Representatives of the church were not satisfied with the SES4 mitigation. ...The cost of the SES4 proposal will be approximately £10m. Protection from noise from the A413 will cost in the region of £1m. The latter will provide direct benefit to the church. In comparison, we heard that the costs of bored and mined tunnel would be upwards of £200m. We do not believe that a bored or mined tunnel would be justified. We believe that the SES4 proposal constitutes a proportionate and adequate package of mitigation for Wendover.'* (2nd House of Commons SC report of 2015-16)



(ii) Is petitioner considering alternatives?



(a) Is petitioner presenting a clear alternative to what is proposed and explaining why it would be less harmful? Generally persuasive.

- E.g. petitioners from Harefield village objected to construction of a feeder station on a road which provided a relatively rural approach to the village, and sought relocation alongside autotransformer station at nearby Ickenham:
 - *Tim Smart of HS2 Ltd explained why this was not feasible.³⁶ We brought pressure to bear on the Promoter to find a solution that would accommodate concerns. Subject to feasibility and an environmental assessment, the Promoter has provided an assurance that the feeder station will instead be relocated to a less obtrusive, more southerly location on South Harefield Road. We think the language qualifying this assurance by feasibility is reasonable. We welcome the progress made on relocation. We trust that a solution will be found for an acceptable relocation and appropriate mitigation screening.'* (2nd House of Commons SC report of 2015-16)



(ii) Is petitioner considering alternatives?

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(b) Does petition address why lesser action, such as mitigation measure by promoter, would not be sufficient?

- Select Committees are drawn to tweaking; a petitioner which is able to present a case for reducing the extent of an existing impact, either as a main request or as a fall-back
 - Typical example: Vent Shaft in Alexandra Place, north London; *‘a sensitive location for construction with a high population density’ – Promoter explained that an alternative construction route would not be practical – Commons Select Committee concluded that ‘the Promoter must tread carefully here. Construction traffic and activity should be timed to take account of local residents...Promoter may need to look at more considerate working hours avoiding weekends and busy traffic periods’*
 - (2nd report of House of Commons SC 2015-16)



(ii) Is petitioner considering alternatives?

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(b) Does petition address why lesser action, such as mitigation measure by promoter, would not be sufficient?

- Therefore, petition more effective where it either addresses why mitigation insufficient or proposes some mitigation as a fallback
- E.g. Burton Green – Bill originally proposed a 600m green tunnel which was to be extended by 50m at both ends. Petitioners argued for a deep bored tunnel or alternatively a short bored tunnel; In rejecting petitioners, HC/SC took into account further mitigation by Promoter.
- Finmere and Mixbury: petitioners wanted lowering of the line; this would cost £125m; Committee noted that there was ‘already substantial mitigation in this area’
- Thus, in formulating petitions, petitioners ought at least to anticipate the inevitable question of why a lesser mitigation measure as might be offered by the Promoter would not be sufficient to address the problem.



(iii) Exceptionality?

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- Is it a run of the mill issue, or does it justify intervention of Committee?



(iii) Exceptionality?

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Unusual/exceptional impact is of interest to Select Committees

- River Island Clothing Company business premises in Ealing; Bill as amended would give promoters powers to put car parking facilities on RI's land: *'the effect on their business would be unquantifiable and could reduce their ability to expand...if The Promoter agreed to commission a review of requirements and options which will report by May 2016, and which will include examination of access issues. If the study finds that there remains a need for the Promoter to use River Island premises, the Promoter should minimise the duration and extent of intrusion onto the premises of this successful business. We are pleased that the Promoter has agreed to seek to avoid any permanent acquisition. The petitioner will be free to appear before the House of Lords select committee if necessary.'*
- Effect of construction impacts in Camden, north London: *'Camden is exceptional, and needs special treatment. Many residents are going to have to put up with disturbance on a scale beyond the experience in most other locations.'*
- Property owned by Euston estates in the vicinity of Euston station another example: long leaseholders did not want arrangement whereby HS2 makes use of properties for 17 years and then returns them; pointed to significant uncertainty; wanted HS2 to buy them out; House of Commons SC recognised merit of their petition;



(iii) Exceptionality?

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In this connection, Committees particularly interested in communal impact:

- *'the impact of construction traffic on the ability of residents to walk around and go about their lives in their immediate environment'*
 - A number of references to impacts on churches which play a strong role in smaller, rural communities
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(iv) Is that.... your local MP?

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- *'Rt Hon Liam Byrne MP persuaded us that is potential for additional regeneration needed more recognition' (Washwood Heath, Birmingham)*
 - *'It would also avoid new intrusion onto greenbelt land, whose value was emphasised by Rt Hon Caroline Spelman MP'*
 - *'We urge the Promoter to be assiduous in maintaining contact with the constituency MP...'*
 - *'Rt Hon Jeremy Wright MP pressed for modelling of noise at the tunnel portals to reassure residents. We have repeatedly sought such modelling and have been disappointed with the Promoter's reasons for not providing it: technical difficulties, and the anticipation that tunnel boom can be designed out.'*
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