

Hybrid Bills

The hybrid bill process

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High Speed Rail (London - West Midlands) Bill 2013-14 to 2014-15

Type of Bill: Hybrid Bill
Sponsor: Mr Patrick McLoughlin
Department for Transport

Progress of the Bill



<http://services.parliament.uk/bills/201314/highspeedrailondonwestmidlands.html>

3 key stages



- Consultation on the Environmental Statement
- Public stages (debate in Chambers)
- Committee stages (petitioning)



The Environmental Statement



27A.-(1) Subject to paragraph (8) below, in the case of a bill authorising the carrying out of works the nature and extent of which are specified in the bill on land so specified, there shall be deposited on or before 4th December in the Private Bill Office and at the public departments at which copies of the bill are required to be deposited under Standing Order 39 (Deposit of copies of bills at Treasury and other public departments, etc.), either-

- (a) a copy or copies (as specified by paragraph (2) below) of an environmental statement containing, in relation to the works authorised by the bill
 - (i) the information referred to in Part II of Schedule 4 to the [EIA Regulations 1999] (referred to below as "Schedule 4"), and so much of the information referred to in Part I of that Schedule as is reasonably required to assess the environmental effect of the works and as the promoters can reasonably be expected to compile; or
 - (ii) such of that information as the Secretary of State may in any particular case direct, or
- (b) a copy or copies (as so specified) of a direction by the Secretary of State that no such statement is necessary in relation to the works authorised by the bill



The Environmental Statement (2)



(2) Copies shall be deposited in accordance with Standing Order 1A

.....

(6) Copies of every environmental statement deposited under this order shall be made available for inspection, and for sale at a reasonable price, on and after 4th December, at the offices at which copies of the bill are required to be made available under Standing Order 4A (Copies of bill to be made available); and there shall also be made available separately on and after that date at those offices, for inspection and for sale at a reasonable price, copies of the non-technical summary.

(7) The reference to Schedule 4 in this order is a reference to that schedule as amended from time to time and includes a reference to the corresponding provision of any regulations which re-enact the Town and Country Planning (Environment Impact Assessment) (England and Wales) Regulations 1999, with or without amendment; and references to particular paragraphs of Schedule 4 shall be construed accordingly.

The Environmental Statement (3)



224A. Comments on environmental statement

(1) This order applies to any government bill in relation to which the Examiner decides Standing Orders 4 to 68 are applicable and in relation to which an environmental statement is required to be deposited under Standing Order 27A.

(3) The notice published under Standing Order 10 in relation to the bill shall state that any person who wishes to make comments on the environmental statement should send them to the relevant Minister in such manner and on or before such date as shall be specified by the relevant Minister in the notice, that date being no earlier than the 56th day after the first publication of the notice

.....

5) The relevant Minister shall, in such form as may be specified by the Examiner, publish and deposit in the Private Bill Office any comments received by him in accordance with this order and shall also submit those comments to the independent assessor appointed under paragraph (6) below. The relevant Minister shall deposit a certificate in the Private Bill Office setting out the date on which all comments have been received by the independent assessor.

The Environmental Statement (4)



(6) (a) If the bill originated in this House and if comments are received on the environmental statement in accordance with this order:

- i . a report shall be prepared by an independent assessor summarising the issues raised by those comments;
- ii. the Examiner shall appoint the independent assessor within the period for commenting on the environmental statement prescribed by paragraph (3) above;
- iii. the assessor shall be instructed to prepare the report within such period as the Examiner shall specify, the end of that period being no earlier than the 28th day after the date certified by the relevant Minister, in accordance with paragraph (5) above, as the date on which the assessor received all of the comments from the relevant Minister;
- iv. before specifying a period in accordance with sub-sub-paragraph (iii) above, the Examiner shall consult the relevant Minister on the length of this period;
- v . the Examiner shall submit the report of the assessor to the House.

(b) If a report is submitted to the House in accordance with sub-paragraph (a)(v) above, the Examiner has leave to submit the report of the assessor to the House of Lords.

(7) If paragraph (6) above is applied, the bill shall not receive a second reading until at least 14 days after the report of the independent assessor on the comments on the environmental statement has been submitted to the House.

Public stages of the Bill



- 1st Reading
- 2nd Reading
 - if the Bill passes 2nd Reading, the House is taken to have agreed the principle of the Bill.
- Instruction to Select Committee
 - An instruction will be given by the House for the guidance of the committee on the Bill
 - May be mandatory, but usually permissive – i.e. conferring a power on the committee to consider matters relevant to subject-matter of the Bill
 - Not able to revisit matters going to the principle of the Bill

Select Committee - petitioning



What should petitions contain?

- The Bill title
- Which clauses of the Bill are relevant to the petition, with a brief explanation as to why
- Who the petitioner is
- Why the Bill affects the petitioner
- What the petitioner requests the Select Committee to do

The petition forms the basis of the petitioner's case before the Select Committee, and should include all points of objection against the Bill.

Fee payable on deposit (currently £20)

Petition must be received by the deadline

Locus standi



“The Committee consider that it is a fundamental principle of private legislation procedure that only parties specifically affected should be entitled to be heard, and that the rules of locus standi must be upheld. If they are allowed to lapse, more of members' time will be taken up in private bill committees. **They recommend that promoters should be encouraged to police the rules of locus standi, and that private bill committees should not treat a reasonable but unsuccessful challenge as a point of prejudice.**”

Joint Committee on Private Bill Procedure
Report HL Paper 97, HC 625, para 101
(emphasis in original)

Locus standi – as of right



Entitlement to locus standi: general principles

Generally speaking, it may be said that petitioners are not entitled to *locus standi* unless it is proved that their property or interests are directly or specially affected by the bill. As a corollary, it has been accepted as an established principle that the owners of land proposed to be compulsorily taken – and also the lessees and occupiers on whom, as owners, the notices required by the standing orders of both Houses are to be served – should always be heard against both the preamble and the clauses of a bill.

Erskine May
Parliamentary Practice
24th Edn, pg 958

Locus standi - discretion



Power to allow locus standi to associations, etc

HC S/O 95

-(1) Where any society or association, sufficiently representing any trade, business, or interest in a district to which any bill relates, petition against the bill, alleging that such trade, business, or interest will be injuriously affected by the provisions contained therein, it shall be competent to the Court of Referees, if it thinks fit, to admit the petitioners to be heard on such allegations against the bill or any part thereof.

(2) Without prejudice to the generality of the foregoing paragraph, where any society, association or other body, sufficiently representing amenity, educational, travel or recreational interests, petition against a bill, alleging that the interest they represent will be adversely affected to a material extent by the provisions contained in the bill, it shall be competent to the Court of Referees, if it thinks fit, to admit the petitioners to be heard on such allegations against the bill or any part thereof.

(HL S/O 117)

Locus standi - discretion (2)



Power to allow locus standi to associations, etc

“The *locus standi* of bodies representing trades, businesses and interests in a locality is dealt with by Standing Order 95 which confers on the Court of Referees a discretion of granting *locus standi* to such bodies if they allege that the trade, business or interest will be injuriously affected by provisions contained in the bill in question. The standing order further provides that bodies representing amenity, educational, travel or recreational interests may be granted a *locus standi* if they allege that the interests they represent will be adversely affected to any material extent”.

Erskine May, pg 959



Locus standi – discretion (3)



Power to allow locus standi to local authorities or inhabitants

HC S/O 96

shall be competent to the Court of Referees, if it thinks fit, to admit the petitioners, being the local authority of any area the whole or any part of which is alleged in the petition to be injuriously affected by a bill or any provisions thereof, or being any of the inhabitants of any such area, to be heard against the bill or any provisions thereof.

(HL S/O 118)



Locus standi – contingent damage

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“In accordance with the general principle that, to entitle them to locus standi, petitioners should prove that their property or interests are directly and specially affected by a bill, petitioners whose property was not taken but who contended that they would be adversely affected by the close proximity of a railway, have on several occasions been refused a hearing.

In some exceptional cases, however, of special damage, disturbance or injury, petitioners so affected have been allowed a hearing, and owners and occupiers of houses who complained that their property, although untouched, would be injured or shaken by a proposed line, have been heard and have obtained protective clauses. The owners of property in proximity to a proposed railway, claiming to be heard on grounds of injury from vibration, have in some cases been granted locus standi, and in others been refused.”

Erskine May, pg 958

Locus standi – post HS2

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- Detailed consideration (and guidance) given to the principles to be applied by HL Select Committee (see Appendix 2 to Report)
- Key points to note:
 - What is meant by specially and directly affected by the Bill?

“The prospect of direct and material detriment to his or her property interests either by compulsory acquisition or by interference with his or her property rights, which amounts to a common law nuisance which would be actionable if not authorised by Parliament”
 - Main admissible issue on individual petitions was noise nuisance;

Locus standi – post HS2 (2)



- Key points to note (contd):
 - Committee has a wide discretion whether or not to hear a petition falling under relevant (discretionary) Standing Orders;
 - General practice not to hear petitions presented by an 'ad hoc' / campaign group upheld (with exceptions);
 - 'Community' issues (eg traffic, PROW) most appropriately addressed by local authorities, and by well established national organisations, such as Ramblers Association, NFU etc
 - Non-statutory blight not a ground for locus in and of itself
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Locus standi – post HS2 (3)



- Key points to note (contd):
 - MPs – "... neither parliamentary practice, nor standing orders, confers locus standi as of right on a Member of Parliament petitioning on behalf of his or her constituents ... we do not feel able to stretch the language of SO 118 so as to confer discretionary locus"
 - Local Councillors – "Individual councillors or groups of councillors acting without the authority of the council cannot claim the special preference afforded to local authorities"
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Additional provisions



- An Additional Provision consists of a document which outlines the amendments being made to powers included within the Bill, supplementary environmental information, and either replacement or additional plans and sections.
- Follows same procedure as Bill
 - Requirement for ES – SO 224A
 - Public debate
 - Instruction to Select Committee
 - Petitions against AP
- General: HL Select Committee cannot make amendments which would result in an AP



Useful links



<https://www.publications.parliament.uk/pa/cm201718/cmstords/pb2017/pvtbs01.htm>

<http://www.parliament.uk/documents/Lords-HS2/House-of-Lords-HS2-petitioning-kit-guide.pdf>

<https://www.publications.parliament.uk/pa/ld201617/ldselect/ldhs2/83/83.pdf>

<https://www.parliament.uk/business/bills-and-legislation/current-bills/hybrid-bills/hybrid-bill-review/>

